



Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761114659022>



M-1

M-1

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 24 March 2010

Journal des débats (Hansard)

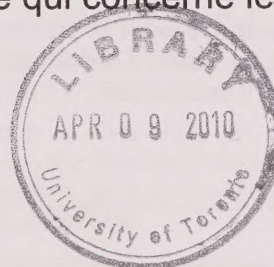
Mercredi 24 mars 2010

Standing Committee on the Legislative Assembly

Election Statute Law
Amendment Act, 2010

Comité permanent de l'Assemblée législative

Loi de 2010 modifiant des lois
en ce qui concerne les élections



Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

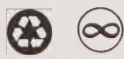
Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 24 March 2010

Mercredi 24 mars 2010

The committee met at 1201 in room 151.

ELECTION OF VICE-CHAIR

The Chair (Mr. Bas Balkissoon): We'll call to the meeting of the Standing Committee on the Legislative Assembly to order. The first order of business is the election of a Vice-Chair. Are there any nominations? Mr. Zimmer.

Mr. David Zimmer: I'd like to nominate Yasir Naqvi as Vice-Chair of the committee.

The Chair (Mr. Bas Balkissoon): Are there further nominations? There being no further nominations, I declare the nominations closed and Mr. Naqvi elected Vice-Chair of the committee. Congratulations to Mr. Naqvi, who's not here, but we'll mail it to him.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): The next order of business is the report of the subcommittee on committee business. Mr. Delaney.

Mr. Bob Delaney: Your subcommittee met on Tuesday, March 9, 2010, to consider the method of proceeding on Bill 231, An Act to amend the Election Act and the Election Finances Act, and recommends the following:

(1) That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 231 on the Ontario parliamentary channel and the committee's website.

(2) That the clerk of the committee send information regarding public hearings to Canada NewsWire.

(3) That the Ministry of the Attorney General provide the committee with briefing binders prior to the public hearings.

(4) That interested parties who wish to be considered to make an oral presentation contact the clerk of the committee by 4 p.m. on Thursday, March 18, 2010.

(5) That, if all witnesses cannot be accommodated, the clerk provide the subcommittee members with the list of witnesses who have requested to appear by 4:15 p.m. on Thursday, March 18, 2010, and that the subcommittee members provide the clerk with a prioritized list of witnesses to be scheduled by 5 p.m. on Thursday, March 18, 2010.

(6) That the committee cover reasonable costs incurred by witnesses related to accessibility issues as authorized by the Chair.

(7) That the length of time for all witness presentations be 15 minutes.

(8) That the committee meet for public hearings on Wednesday, March 24, and Wednesday, March 31, 2010, from 12 p.m. to 3 p.m., subject to witness demand.

(9) That the deadline for written submissions be 5 p.m. on Wednesday, March 31, 2010.

(10) That the deadline for filing amendments be 2 p.m. on Wednesday, April 7, 2010.

(11) That the committee meet for clause-by-clause consideration on Wednesday, April 14, 2010, from 12 p.m. to 3 p.m.

(12) That the research officer provide the committee with a summary of witness presentations either on April 1, 2010, or April 7, 2010.

(13) That the clerk of the committee provide all committee members with a copy of the final report of the Select Committee on Elections.

(14) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Chair, this is the report of your subcommittee.

The Chair (Mr. Bas Balkissoon): Shall the report of the subcommittee be adopted? Agreed.

ELECTION STATUTE LAW
AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES ÉLECTIONS

Consideration of Bill 231, An Act to amend the Election Act and the Election Finances Act / Projet de loi 231, Loi modifiant la Loi électorale et la Loi sur le financement des élections.

ELECTIONS ONTARIO

The Chair (Mr. Bas Balkissoon): We'll move to the first deputant. The first deputant is Elections Ontario: Mr. Greg Essensa, Chief Electoral Officer; Loren Wells, Deputy Chief Electoral Officer; and Jonathan Batty, director of election finances and general counsel. Please

come forward. You have 30 minutes to make your presentation. If there is any time left at the end of your presentation, we will allow questions from all three parties.

Mr. Greg Essensa: Thank you, Mr. Chair and members of the committee. I would like to thank the committee for inviting me to appear today.

I have appeared before members of this House three times in connection with the reforms being proposed in Bill 231. My first appearance was in December 2008 before the Select Committee on Elections, where I outlined my vision of how Ontario's election laws could be updated to better serve electors. We need to put electors first. In support of those recommendations, in February 2009, I provided the committee with proposed reforms to the Election Act, the Election Finances Act and the Representation Act.

My second appearance was in May 2009, when I was invited to speak to the select committee about political advertising and, in particular, about the rules on third party advertising. Many of the proposals that I made to the select committee are reflected in the report it tabled in June 2009. Many of those same proposals are also found in Bill 231.

As I have mentioned previously, there is no better time than the present to modernize Ontario's election laws. However, if election laws are updated, then we need to have sufficient time to implement the changes and assist the public in understanding what they mean.

I have been following the introduction and second reading debate on Bill 231. I am glad to have the opportunity to appear before this committee to talk about the future of elections in Ontario. I know this committee, and ultimately the Legislative Assembly, will take great care in its deliberations as it considers what it hears from me and other witnesses in these public hearings.

As I suggested in my February 2009 written submission, I think there are three fundamental democratic principles that need to be taken into account when our election laws are being reformed: First, individuals need to be fully able to exercise their democratic electoral rights; second, individuals need to be served in a modern, responsive, and efficient manner; and third, election officials need to be accountable, and the process we administer needs to be transparent and impartial.

There is a balance that must be struck between these principles. While every person who has the right to vote should have some way of doing so, the integrity and scrutiny of the voting process must not be compromised, and the voting process should not be overly complex or expensive to administer.

In practice, this means voters in Dryden have as equal an opportunity to cast their ballots as voters in Brampton; it means seniors, students, persons with disabilities, new Canadians and others who face barriers and challenges are all served efficiently; and it means Ontarians need to be confident that the voting process is administered fairly and economically.

I want to assure the committee that the election officials, including Ontario's 107 returning officers and

the tens of thousands of people who work in our polls, take these principles very seriously.

I would like to speak to you today about the future of elections in this province. It is my primary duty to ensure that Elections Ontario is diligent in serving and assisting the electorate. As Elections Ontario considers how we can best fulfill our responsibilities to the electorate, I want to speak to you about three things: first, the tools to better serve the electorate that Bill 231, if passed, will give Elections Ontario; second, other reforms to consider in the future; and finally, how we, together, can ensure that all electors are put first.

Bill 231, as I mentioned at the start of my presentation, reflects many of the proposals that were suggested to and adopted by the all-party Select Committee on Elections. Of the many changes proposed in Bill 231, I would like focus on a few of the most significant amendments for electors.

Special ballots: Bill 231 would eliminate the seldom-used proxy-voting process and replace it with a special ballot process. Special ballots will allow electors to vote without having to go into the polls. These provisions will ensure that eligible electors, whether they are in Ontario, elsewhere in Canada or out of the country, will have the ability to vote, for example, by mail. This will benefit post-secondary students, snowbirds, persons with disabilities or people who are overseas, including those who are serving in the Armed Forces.

The second area is home visits. Allowing housebound electors to cast their ballots using a special ballot kit would dramatically improve the accessibility of voting. This is not currently allowed in provincial elections, but is permitted federally. Bill 231 includes provisions, similar to those in the Canada Elections Act, that would allow home visits. A housebound elector will be entitled to have a home visit and to apply for a special ballot application and, if requested, assistance with voting.

1210

The third area in Bill 231 I'd like to address is alternative voting equipment. Electoral agencies have been told for many years by some voters with disabilities that the current paper-based ballot process is inaccessible to them. Bill 231, if enacted, would allow for the sort of accessible voting equipment we tested with success at advance polls in two recent by-elections. This would put Ontario at the forefront of federal and provincial jurisdictions in improving the accessibility of the voting process.

The fourth area is the new staffing model. People don't mind lining up to vote. It is an important part of their civic duty. However, it frustrates them when they are in a long line in front of one table and five other tables have no lineups at all. It defies common sense, and they are right to be frustrated. Lineups are not caused by mismanagement. They aren't the fault of the election workers, who are stationed there for 12 hours straight. Our workers would like nothing better than to help people vote quickly and efficiently.

The law, as it's currently written, allows only two workers to process people through the polls. There are

much better client service models present. For example, banks found this out long ago, when they eliminated individual lineups in front of each teller. Bill 231, if enacted, will allow for a new staffing model to be used in locations with more than one poll.

Similar to the Canada Elections Act, Bill 231 also proposes that mobile polls be used to serve more than one institution in an electoral district. This will allow electors to be served quickly and expertly by specially tasked and ultimately fewer election workers.

There are some matters, however, that were raised before the select committee that have not been specifically addressed in Bill 231. There are a few areas in particular that I'd like to briefly touch upon today.

The use of schools on polling day: One recommendation that I continue to support is the idea that a polling day should fall on a school holiday, a weekend or on a professional development day. I think that would help address the challenges that returning officers face in finding accessible rooms, and resolve some of the security concerns that school officials have expressed.

The area of election finances: There are two election finance matters that I addressed in my previous submissions and which I would like to mention again today. If at some point there is going to be a review of the election finance process and the law defining it, the Legislative Assembly may wish to examine the rules concerning third party advertising. In my presentation to the select committee, I suggested that there were four things the Legislative Assembly could look at, given the experiences in other jurisdictions:

- (1) Should Ontario adopt third party spending limits?
- (2) Should Ontario adopt third party contribution limits?
- (3) Should Ontario try to limit third party advertising spending to the amounts it raises prior to and during an election?
- (4) Should Ontario adopt stricter registration and anti-collusion provisions?

The other matter the Legislative Assembly may also wish to consider is rules concerning administrative penalties. Currently, late filings of financial reports remain a problem under the Election Finances Act. Apart from being prosecuted and fined upon conviction, there is no proportionate sanction for those who fail to comply with the law because of carelessness or lack of attention. For example, the campaign that files six months late gets the same public subsidy as the campaign that files on time.

It would put Elections Ontario on par with other provincial regulators and with other electoral agencies if it had the authority to issue reprimands, suspensions and other administrative sanctions without having to recommend formal prosecutions for admittedly minor infractions.

Before I leave you today, I want to talk to you about what we can all do ensure that electors are put first in the electoral process. Elections Ontario must be diligent in serving and assisting the electorate. I am especially aware that Elections Ontario has to serve all electors. We serve

seniors, students, persons with disabilities, aboriginal and First Nations peoples, new Canadians, inmates and any and all others who face unique barriers.

For election officials, there is no greater satisfaction than knowing people have been able to vote. If someone is unable to vote or has encountered a barrier because of something we have done or failed to do, then we have not done our job properly.

Having administered elections for over 25 years, I can tell you that something will always go wrong somewhere. It is our responsibility, however, to solve problems when they arise.

My job is to tell you the tools we need to make sure every elector has the opportunity to vote. That is why I appeared before the select committee and recommended the adoption of special ballots, mobile polls and the use of accessible voting equipment. My job is also to ensure that I give returning officers the tools they need to do their jobs.

I want to spend a few minutes talking about accessibility, as I know how important this issue is. Returning officers are required by the Election Act to report to my office on accessibility. My office is then required to make public these reports. For the 2007 general election, summary information was reported in June 2008. I have brought a copy of that report, along with copies of the reports from each returning officer, to give to the committee for its reference.

With regard to the polls in the general election three years ago, returning officers were asked, "What percentage of your voting locations provided barrier-free/level access, and if that was less than 100%, what were the reasons for this?" They were also asked, "Did you have to build a ramp, install a push button or take any other measures to make any voting location accessible?" Collectively, it was reported after the 2007 general election, 99% of voting locations across Ontario were barrier-free.

In the February 4, 2010 by-election in Toronto Centre, the Toronto Sun reported that one of our polling locations wasn't accessible. We told electors it would be. It was not accessible because of a last-minute room change. The AODA Alliance also contacted me after polling day: A candidate complained to them about five locations where there was poor signage, debris and difficult access. These reports, which I take to be true, sadden me. We now know a lot more about accessibility than we had in the past. We need to fix these things on polling day. It is too late to learn about them after the election. This proves in my mind that Elections Ontario needs to be doing a much better job of ensuring accessibility for electors. We are working on this already.

I know that to date, returning officers have not been given adequate tools to provide for accessibility, measure accessibility and report on accessibility. Under the new standards of the Accessibility for Ontarians with Disabilities Act, Ontario is not required to have a fully accessible built environment until 2025. Nonetheless, Elections Ontario will do what it needs to ensure accessibility at the polls. In very specific terms, this means that

we will give field staff a more detailed accessibility guide to use for selecting and operating voting locations. This means that if electors face an unexpected barrier, they can easily call upon our workers for help.

We need to provide our workers with better resources, tools and processes to serve all electors. Elections Ontario will be consulting persons with disabilities and others on our detailed accessibility guide. In this process, we expect to be working closely with Elections Canada and the Association of Municipal Clerks and Treasurers of Ontario, as they also have an interest in this area.

We cannot and will not do this alone. We are committed to building effective partnerships with other service providers, parties, candidates and the communities we serve to get this job done.

I thank you for inviting me to appear today. I am happy to answer any questions that you may have.

The Chair (Mr. Bas Balkissoon): Thank you. We'll start with the Conservative Party. We do have about four minutes.

Mr. Ted Chudleigh: Thank you, Mr. Chairman, and thank you for appearing before us. We look forward to these hearings.

Third party spending, contribution and fundraising limits were mentioned in your report, but they didn't make it to the legislation. If you were rating the things in Ontario that skewed election results, where would you put that third party spending?

Mr. Greg Essensa: I think because third party spending rules were introduced in 2007, it's a relatively new phenomenon that Elections Ontario has had to deal with. What I suggested to the select committee: In my research, looking across the country, every other jurisdiction across the country has some form of either spending limit or means in which third parties have some form of restraint on their funds that they are able to utilize during a campaign. The recommendation I had made to the select committee was, this is something that the Legislative Assembly, were it willing to turn its mind towards electoral finance reforms, should turn its mind towards, given what's occurring in the rest of the country.

1220

Mr. Ted Chudleigh: Thank you. We respect that.

The other issue was the issuing of electronic tax receipts. Our party would like to see the issuing of electronic tax receipts. Charities have the right to issue electronic tax receipts, the federal government is able to issue electronic tax receipts, and yet it's not in this bill. Should electronic issuing of receipts be in this bill? Should Ontario be doing the same thing as other jurisdictions across Canada, including the federal government, as it would be a significant saver of time and money for political parties in Ontario? Would you agree that electronic receipts should be in here?

Mr. Greg Essensa: During my representations before the select committee, I advocated for the modernization of the electoral finance reforms in that particular area. Electronic receipting is one of the areas that I did

recommend should be taken into consideration by the select committee.

In the current bill, Bill 231, there is a provision that would require the Chief Electoral Officer to design and implement or put in place a database for the use of parties to, in fact, provide electronic receipts to contributors, political parties and constituency associations.

Mr. Ted Chudleigh: This act comes into force, I believe, in June 2011. The next election is October 2011. Do you see that time frame of implementation of the whole new act, four months before an election, as problematic? Should this be put off to the election after the next one?

Mr. Greg Essensa: One of the things that I had advocated to the select committee that was important from my perspective was the introduction of this legislation in a timely fashion so that, in fact, we at Elections Ontario could make the appropriate changes, because there are significant changes that are contemplated by this bill that have direct operational impact on the services that we deliver. Having this bill passed in a timely fashion was something that I very clearly indicated was a priority from my perspective.

Pertaining to the electronic receipting, it is a very aggressive timeline to have it ready for June 2011, and that is something that we articulated as well in our presentations before the select committee.

Mr. Ted Chudleigh: Does it scare you?

Mr. Greg Essensa: As always, I will do as requested by the Legislative Assembly, and we will put every effort in place to make sure that that is fulfilled as currently—

The Chair (Mr. Bas Balkissoon): Thank you. We will move on to the NDP. Mr. Prue?

Mr. Michael Prue: A couple of things, and I thank you for your report. I apologize for being a few seconds late: I was out there at the Greek flag raising. Since I'm the only one in my caucus who speaks even a smidgen of Greek, I was out there. It's good to see you again.

You write the report—and I don't find any fault with anything that you said or you wrote, but two things I'd like to ask: You talk about future legislative reforms, you talk about school use on polling day and election finances as they relate to third parties, but there's nothing about election finances as they relate to political parties. I know this was a pretty hot and contentious subject. I know the city of Toronto, from whence you came, has recently moved to ban union and corporate donations and just have individual donations. The federal government has done that; some of the other provinces have done that. You don't write anything about that. Do you think we ought not to go there, or is it just not a priority?

Mr. Greg Essensa: From my perspective, I would concur with you. There is a trend across the country that we are seeing, whether it be at the federal level, at the provincial or at the municipal level, where jurisdictions have moved toward banning corporate and trade union donations in the political arena. From our perspective, there are higher-priority issues, I guess I would respectfully say—that we need to put the elector first and

foremost at the front of the process, and in doing so, the bill addresses many of those issues on special ballots, mobile polls, new staffing models, accessibility reforms, where I truly believe that that needs to be the focus and the emphasis from Elections Ontario.

Mr. Michael Prue: I understand that, but you talked about future legislative reforms, and you did not include this as one. Do you not think that there should be a reform?

Mr. Greg Essensa: I think that's something that the House, the Legislative Assembly, would need to grapple with themselves. That's more of a policy issue than one that I would—

Mr. Michael Prue: Okay. The second thing is the unfortunate incident in Toronto Centre with a gentleman in a wheelchair having to be carried down the stairs. I was not there; I only read the Toronto Sun and a few comments that followed that.

Mr. Lepofsky, who is well known to all of us, has written a very strong and intense paper outlining 24 concerns or areas that he wants us to move on. Were you copied on that?

Mr. Greg Essensa: Mr. Lepofsky actually sent that to me late yesterday.

Mr. Michael Prue: So you've had a chance to read it. Is there anything in what he has written that causes you any concern? I looked at it. It all seemed to me to be eminently doable and the right thing. I'm not sure of the costs or how they're going to be implemented. Would any of that cause you any grave concern in terms of either costs or implementation?

Mr. Greg Essensa: One of the things we're undertaking at Elections Ontario is an examination of what the financial impact would be of all of the recommendations. Given that we only received Mr. Lepofsky's brief yesterday afternoon, I've not had the opportunity to fully vet what those cost implications would be, but that is something that we're undertaking now.

Mr. Michael Prue: Thank you very much.

The Chair (Mr. Bas Balkissoon): We'll move to the government side. Mr. Zimmer.

Mr. David Zimmer: Mr. Sorbara.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara?

Mr. Greg Sorbara: Thanks, Chair. Just to begin by saying, as the Chair of the Select Committee on the Elections Act—David was the co-Chair—we worked very closely with Greg Essensa. I want to tell you, as someone who participated in the committee that selected him, we are very well served indeed by a Chief Electoral Officer who understands our process very well and understands the process of holding strong democratic elections as well as anyone in the country. We're very well served, and we've been working closely together.

I wanted to just ask about the issue relating to accessibility of polls. It's one that arises time and again. At this point, this act that we are considering does not require that every single polling station be accessible as understood by communities looking for accessibility. Is that right?

Mr. Greg Essensa: That is correct.

Mr. Greg Sorbara: Given the hundreds and hundreds of polling stations across the province, what percentage would you say are accessible now? How are we doing, in other words?

Mr. Greg Essensa: What was reported after the 2007 general election was that 99% of our polls were accessible. What we understand better now is—as we're learning more and more about accessibility features, and the standards are being reviewed under the AODA, I think that we are quite confident that some of those numbers perhaps weren't exactly accurate, given the standards that we would apply today.

One of the things that we are doing at Elections Ontario now is embarking on a fairly aggressive consultation process where we will be working with focus groups to assess what the quality standards and accessibility standards need to be and what the barriers are that we need to remove to ensure that we can comply and become as fully accessible as possible, given the current restraints that perhaps pertain in some locations that we need to utilize for voting. We intend to fully engage the disability community in those consultations to ensure that the standards that we put in place—that we get them right.

Mr. Greg Sorbara: Just finally on that topic, if this committee and this Legislature ultimately decided to impose that sort of a standard in this act, do you feel that it is a standard that Elections Ontario could deliver in a timely fashion in preparation for the October 2011 election?

Mr. Greg Essensa: If the Legislature, the House, deemed it necessary, we would make every effort to achieve that standard, yes.

Mr. Greg Sorbara: If I've just got another second, maybe we could make public our disagreement on the issue of school closings and elections. People know that we have many of our polling stations in schools, and the Chief Electoral Officer believes that on election day schools should be closed. Just to give you an opportunity to restate your case, what kind of issues do you run into which lead you to argue—repeatedly, I might say—that schools should be closed on election day?

1230

Mr. Greg Essensa: I will turn no further back in my mind than to the February 4 issue that was widely reported in the Toronto Sun. The issue on that particular day resulted as a matter of the principal notifying our returning officer at 11 o'clock the night before that the gymnasium that we had already inspected, already deemed to be accessible, was not going to be available because of a volleyball playoff game that had to be played in that school.

Mr. Greg Sorbara: So volleyball trumped politics?

Mr. Greg Essensa: The location that the principal indicated to our returning officer was accessible and that we were going to be relocated to, in fact, unfortunately turned out not to be accessible. To me, that reinforces my argument as to why polling day should be either a school

holiday or on a weekend, because if that were the case, if that were the law, that issue never would have arisen, that school would not have had—

Mr. Greg Sorbara: Could we solve it by prohibiting volleyball on election day?

The Chair (Mr. Bas Balkissoon): We have to move on. Thank you very much for taking the time to be with us today.

ONTARIO HUMAN RIGHTS COMMISSION

The Chair (Mr. Bas Balkissoon): Our next deputant is the Ontario Human Rights Commission: Barbara Hall, chief commissioner. You have 15 minutes. If you leave any time at the end of your presentation, there will be questions from all parties. I would ask you to state your name first for the record and then begin your presentation.

Ms. Barbara Hall: Barbara Hall, chief commissioner of the Ontario Human Rights Commission. It's a pleasure to be here and speak about an issue of access to democracy, and voting within that. I'm very pleased to appear before you today on behalf of the Ontario Human Rights Commission.

The OHRC commends the government for introducing provisions to improve the accessibility of our electoral system for persons with disabilities. We support the use of special ballots by mail, mobile polls for voting in institutions, home visits, accessible voting equipment and the study of other accessible methods. We have concerns however, shared by others, about what is not in this bill.

The bill does not require the use of accessible voting equipment and procedures, nor does it require polling stations to be set up in accessible locations as a right. Barrier-free participation is a right, and not only for voters with disabilities. The bill contains no provisions to address accessible electoral processes for candidates with disabilities, such as requiring accessible locations for campaign offices, nomination and campaign meetings, debates, and related events. There is no requirement that campaign and other election materials be made available in electronic and other accessible formats.

The bill does not address disadvantages faced by candidates with disabilities or potential candidates who may be discouraged from running because of disability-related expenses. Sign language interpretation and captioning may be necessary for deaf or hard-of-hearing candidates to participate at meetings and events. There are no provisions to have disability-related expenses be exempt from contributions or spending limits, nor be included for full reimbursement by Elections Ontario. Doing so would help meet the human rights standard that the cost of accommodation should not be borne by the person with disability, but rather shared broadly in society.

We recognize that similar concerns are also being raised by groups such as the ARCH Disability Law Centre, the AODA Alliance, the Canadian Hearing Society and the Council of Canadians with Disabilities.

Indeed, some of these concerns have already been addressed elsewhere.

Bill 212 on good government amended the Municipal Elections Act so that, starting with this fall's municipal elections, each voting place must be accessible to electors with disabilities; clerks must submit, within three months of voting day, a report to councils about the barriers affecting both electors and candidates with disabilities; and expenses related to a municipal candidate's disability will be excluded from spending limits.

A few human rights cases have also gained ground on some of these issues. Going back to 2000, the commission settled two complaints that required the city of Ottawa to ensure that voters with visual disabilities could cast their vote independently and in secret. Just last month, the decision of the Canadian Human Rights Tribunal in the Hughes case now compels Elections Canada to change its leasing policies, signage and training and to ensure that its polling stations are accessible, as well as to implement a public complaints and reporting process. With respect to that case, I'd also note that an award of damages was made to Mr. Hughes in the area of \$10,000. That shows that not moving forward also has a cost. We think it would be better to put the resources into upgrading as opposed to being paid out when people are denied access.

Despite these gains, voters and candidates with disabilities continue to face barriers. Relying on Ontario's human rights system should be a last resort. Legislative reform must match or, better yet, exceed these gains. The best way to eliminate accessibility barriers and avoid complaints is to make sure that legislation and policy prevent them in the first place. This would demonstrate that Ontario is serious about its commitment to barrier-free access.

Voters and candidates with disabilities want to participate fully in the political process. They have the right and we all have the obligation to make it happen. The Canadian charter recognizes this. It states in section 3 that every citizen has the right to vote or be qualified as a candidate, along with the right to be free of discrimination because of disability, in section 15. The Ontario Human Rights Code recognizes this: The duty to accommodate disability applies to all those involved in the electoral process. And now, the UN Convention on the Rights of Persons with Disabilities, ratified by Canada—with the support of the provinces—just two weeks ago, requires government to take steps to ensure that voting procedures, equipment, facilities and materials are accessible and that persons with disabilities have the opportunity to vote in secret and run for election on an equal basis.

I believe that all parties of this Legislature support the need to make our electoral system accessible to everyone. I urge this committee to give serious consideration to the individuals and groups coming forward with concerns and proposals to help this bill eliminate all barriers once and for all.

Thank you.

The Chair (Mr. Bas Balkissoon): Thank you. We have about two and a half minutes each, and we'll start with the NDP. Mr. Prue.

Mr. Michael Prue: Good to see you again, Barbara.

The question of cost always rears its head. In some of my discussions with Mr. Lepofsky and others, he indicated to me that discussions he's had with government officials hinge on the difficulty of paying for special voting machines, as an example, at \$11,000 apiece, in every voting station. They're probably not needed in every station, but they're hugely expensive. How do we get around that?

Ms. Barbara Hall: I know that there are some who say that technology is not all the solution. I understand that at times it is, and when it is, \$10,000 a machine versus \$10,000 for damages in a complaint—I think the choice would be with the machine.

I think it's having a range of opportunities, and clearly choice for people with disabilities going to a voting station close by where they know they don't have to do a lot of checking ahead, but as a right they can go and assume that it is there. I think that these are costs to our society that we need to bear.

1240

The Chair (Mr. Bas Balkissoon): We'll now move to the government side. Mr. Sorbara.

Mr. Greg Sorbara: Thank you, Barbara, for coming here and making your presentation.

I just want to say, by way of setting the stage, that during the course of our special committee hearings, we worked very closely with a number of deputation from the disabled community and with Elections Ontario to ensure that we were making real progress. Of course, the question for this committee is now the extent of that progress: the implementation of special ballots, for example, and ridding ourselves of the proxy system, where so many people with disabilities had to basically rely on signing a piece of paper to say, "My friend or that campaign worker Joe Blow—he's going to cast my ballot." We have tried to make sure that everyone that votes, notwithstanding one's ability or lack thereof, gets to mark a ballot in one way or another, including some very sophisticated machinery that allows for voting with the very latest of technologies.

If there were one amendment that you would like to see in this bill, what would that be?

Ms. Barbara Hall: Certainly one of them would be that all polling booths be accessible. I know in the city of Toronto when we moved to that from the era when people polled in a house down the way, which was totally unacceptable—we bit the bullet on that. I think that people have a right, and I heard, as you did, the elections officer saying that if that were the law, he would make every effort to comply with that.

The Chair (Mr. Bas Balkissoon): We'll move to the opposition. Mr. Chudleigh.

Mr. Ted Chudleigh: Thank you for coming, Ms. Hall. It's always good to see you.

The electoral officer suggested that if election day were to move to the weekend, we might see a higher turnout. It strikes me that we would also be able to see more buildings with handicap access available on the weekends, such as schools and those types of things. With declining voter turnout—if my memory serves, in 1995 I think there was about a 64% turnout in my riding; that has now declined. In the last election I think it was 54%, and it's been a steady decline over those years. I think a weekend vote may very well help bring out a larger turnout as well as making more handicapped buildings available. What would you think of that? The government has rejected that idea, but our first two deputation, I think, would agree with a weekend vote.

Ms. Barbara Hall: I'm not familiar with any research on that point. I do know that there are jurisdictions in the country—for example, I know a number of times I've been in Vancouver during municipal elections, and those are often on a weekend. So I have not had an opportunity—

Mr. Ted Chudleigh: A politician such as yourself would have a gut instinct on this, I'm sure.

Ms. Barbara Hall: —to look at what the impact of that is in terms of the numbers. But I think as we look at the cost of things, increasingly we need to look at more flexible models that allow us to use infrastructure that's out there. I think we're all doing that in terms of a lot of things. That may be an option, but that is not based on any statistical knowledge about whether voting goes up if it's on a weekend or not.

I guess another side of that is, for many of the staff, that may end up being more costly because it's time and a half or overtime, or something like that. There are a number of issues.

Mr. Ted Chudleigh: Most of them are volunteers, but I appreciate your instinct on that.

The Chair (Mr. Bas Balkissoon): Thank you very much. I just want to thank you very much, Barbara, for taking the time to come down and make your deputation.

Ms. Barbara Hall: Thank you very much. It's good to see you all.

MS. SUE MORGAN

The Chair (Mr. Bas Balkissoon): We'll move on to the next presenter, Sue Morgan. Is Sue Morgan here?

Ms. Sue Morgan: Yes, I am.

The Chair (Mr. Bas Balkissoon): Okay. You have 15 minutes. I would ask you to state your name for Hansard. If you leave any time at the end of your presentation, we will allow questions of all parties.

Ms. Sue Morgan: Thank you very much for having me. My name is Sue Morgan and I'm from Kitchener, Ontario. I have a very simple story to tell you. The last time we had the provincial election, we received a card in the mail saying that it was wheelchair-accessible. That was fine, but in my concern, I decided to go down and check it out myself, and did so. It was, if it was during

the week and if you needed to go to church—it was accessible to those people—but not on election day.

There was a four- to six-inch cement barrier for me to go up, which I did not do. Fortunately for me, one of the volunteer drivers of a political party, who was waiting for his people to cast their votes, helped me. He went into the electorate and got someone to come out. They came outside in the rain and I could vote then. That was it.

The Chair (Mr. Bas Balkissoon): Okay. We have questions. The government?

Mr. Greg Sorbara: Well, just a couple of questions to sort of flesh out that story. This was the election in 2007?

Ms. Sue Morgan: Mm-hmm.

Mr. Greg Sorbara: And in order to solve the problem, you're saying that one of the election workers running the poll at that time actually came outside—

Ms. Sue Morgan: They all did, from my poll.

Mr. Greg Sorbara: Sure, because there are two or three people who have to oversee the process.

Did you have a discussion with the returning officer for that riding afterward?

Ms. Sue Morgan: No, I didn't. And yes, I know you're all going to say I should have, but—

Mr. Greg Sorbara: No, I'm not going to say that. I think what should have happened is, you should have been able to access the poll without—

Ms. Sue Morgan: Just like everybody else. And if someone had had a cane or a walker, they would have been able to get into the building. But with the power chair, I just could not get over that six-inch rim or curb.

Mr. Greg Sorbara: I take it that you are a committed voter; that is, when election time comes, you go out and vote.

Ms. Sue Morgan: Oh, yes. I vote.

Mr. Greg Sorbara: Generally, when you go to vote, the polling station is accessible: Is that right?

Ms. Sue Morgan: With some barriers, some difficulties. I think the main reason is that people fill out the form beforehand—three months, I think, beforehand. A clerk fills out the form saying that they are accessible. They are not lying; they are wheelchair-accessible. They are accessible in every way. The building itself is accessible, but not necessarily on election day.

Mr. Greg Sorbara: Right. Is it fair to say, then, that sometimes, when you go out to vote, you can get there and sometimes you can't?

Ms. Sue Morgan: No. I've always voted, fortunately. It's just imposing on others to help me.

Mr. Greg Sorbara: One of the thrusts in this bill is that you shouldn't have to impose on others to get you to a place where you can drop a ballot into a ballot box.

1250

Ms. Sue Morgan: I wasn't able to drop the ballot. I was only able to fill out the ballot, fold it and give it back.

Mr. Greg Sorbara: So they didn't bring the ballot box. Of course, we don't drop it in, in any event. We always have to give it to somebody else.

Ms. Sue Morgan: Yes, we have to give it to the—

Mr. Greg Sorbara: We couldn't leave that process of actually putting the ballot in the box to an individual voter. That would be going far too far.

Anyway, thank you very much for coming in and letting us know about that. I should say that, on behalf of our own party and the select committee, we are determined to make real progress in this area, in this new act, and one only hopes that the next time you go to vote you'll remember your time here and see the changes that have been put in place to make sure that you have access.

Ms. Sue Morgan: I'll definitely make note of those. Thank you very much. I urge all of you to pay attention to Mr. David Lepofsky, who's going to be presenting tomorrow, and his additions to the bill and/or omissions. You'll have to omit some things.

Mr. Greg Sorbara: There is very little possibility in this province of not paying attention to David Lepofsky.

Ms. Sue Morgan: That's true.

The Chair (Mr. Bas Balkissoon): Thank you. We'll move on to the opposition. Mr. Chudleigh.

Mr. Ted Chudleigh: Thank you for being a committed voter. For one who wanders up and down the streets hammering on doors, I appreciate the fact that you are a committed voter. You said you're from Kitchener: Would that be Kitchener-Conestoga or Kitchener-Waterloo?

Ms. Sue Morgan: Kitchener-Waterloo.

Mr. Ted Chudleigh: The report says that there were 100% voting locations.

Ms. Sue Morgan: Yes, and they're wrong.

Mr. Ted Chudleigh: It's interesting. I note that Kitchener-Waterloo is blanked out. There's no answer in that one. I would perhaps ask the Chair or the government as to why that would be. But thank you for being a committed voter, and I'm sorry you had that trouble. I think that, coming from a friendly town like Kitchener, you would always get the job done.

Ms. Sue Morgan: Yes, we do.

Mr. Ted Chudleigh: But it's too bad that you had to have that difficulty.

Ms. Sue Morgan: Thank you.

Mr. Ted Chudleigh: Hopefully, this bill will go a long way to fix that.

Ms. Sue Morgan: It would be wonderful.

Mr. Ted Chudleigh: We think this bill should go a little further in some other areas, but I think it's going to do the job. Would you have—

Ms. Sylvia Jones: Thank you. Briefly, to continue on Mr. Sorbara's questions, you mentioned that you vote in other elections. Has this voting location been used in municipal or federal?

Ms. Sue Morgan: No, this one hasn't. The one that I'm speaking of right now that was used the last time for the provincial election was not used for a federal or a municipal.

Ms. Sylvia Jones: Okay.

Ms. Sue Morgan: When I did have trouble with a municipal election, I contacted our mayor immediately.

Ms. Sylvia Jones: And you were able to vote in that case.

Ms. Sue Morgan: Oh, yes.

Ms. Sylvia Jones: On a different note, but I'm going to ask the question, because you've taken the time to come down to the committee: Have you put your mind around changing the voting day from a Thursday to a weekend? Have you got any thoughts on whether that would make the locations easier to find, to be accessible?

Ms. Sue Morgan: I think it's probably a very good idea if it was open on a Saturday. People who work all day are not going to go out to the polls and vote at night—they really aren't. I'm sorry, but they're not. If it was on a Saturday, I think they would.

Mr. Ted Chudleigh: You would.

Ms. Sue Morgan: Gone are the days when we worked all day and then went out to the polls to vote. You have children to pick up from nursery school and all kinds of things—daycare.

Ms. Sylvia Jones: Thank you.

Ms. Sue Morgan: One change I would make is, I would say that every poll that says it's going to be barrier-free should be audited by a person with a disability, a wheelchair disability. There are many other disabilities, but for buildings, it would be a good idea to have it.

Ms. Sylvia Jones: For physical accessibility.

Ms. Sue Morgan: A physical disability.

The Chair (Mr. Bas Balkissoon): We'll move on to Mr. Prue.

Mr. Michael Prue: The government, in introducing this bill, talked about taking away the barriers of people being able to vote by incorporating electronic voting of various—and I'm sure that that would work for some. But to me, it seems that a person who is disabled, a person in a chair such as yourself, wants to go out on election day and vote with everyone else; wants to actually physically go and put a ballot in the box.

Ms. Sue Morgan: Yes. The only problem with some of these election ballot machines is that it's way up high, where to put the ballot in. If it was lower, at a child's height, for instance, that'd be perfect for us.

Mr. Michael Prue: But this is what I want to get across, perhaps, to some who don't really understand.

Ms. Sue Morgan: I would want to physically go out to vote.

Mr. Michael Prue: You want to physically go, and you should have the right to physically go. You shouldn't have to stay at home and vote electronically.

Okay, some have given an opinion that this may be a costly process. You were in the room when I asked Barbara Hall the question and Mr. Essensa the same question. I don't think that the money is badly spent. I'm liable to be pilloried in the right-wing press. Even if it costs a couple of million dollars to ensure that every disabled person has the same rights as those who are not disabled, it's money that has to be spent.

Ms. Sue Morgan: I think more people with disabilities would get out and vote. I really do. The people

whom I have spoken to have been fearful of going to elections because, although it says it's barrier-free, they don't necessarily find that when they get there. So over the years, they've just decided not to bother, which is really bad.

Mr. Michael Prue: Since turning 21 some 40 years ago, I've voted in many elections. I've gone into many polling places and seen election workers. I don't ever remember seeing a person in a wheelchair as one of the election workers, and I wonder—

Ms. Sue Morgan: I have worked at polls while I've been using a wheelchair.

Mr. Michael Prue: Okay, so it's not impossible, but I'm just wondering whether or not it's because of some of the barriers.

Ms. Sue Morgan: It is. They have to be very, very careful where they place us. The last one that I was placed in—it's a couple of elections ago, not a provincial election—it was just so impossible that I decided not to bother for the next time.

Mr. Michael Prue: Because it's 12 hours long, it would have to have an accessible washroom and all kinds of other things as well.

Ms. Sue Morgan: An accessible kitchen would be nice.

Mr. Michael Prue: An accessible kitchen. Is this something that we should also insist upon, in order to allow ordinary citizens who want to participate in the electoral process in terms of being poll clerks or DROs—

Ms. Sue Morgan: I hadn't thought about it before. Yes, I think that's a very good idea.

Mr. Michael Prue: Should that be included in the legislation?

Ms. Sue Morgan: That would be good, very good.

Mr. Michael Prue: Okay. Thank you very much.

Ms. Sue Morgan: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to join us and making your presentation.

Ms. Sue Morgan: You're most welcome. Thank you for having me.

DISABILITY AWARENESS CONSULTANTS

The Chair (Mr. Bas Balkissoon): The next presenter is the Disability Awareness Consultants. Lauri Sue Robertson, please come forward. You have 15 minutes. I would ask you to state your name for the record, and if you leave any time at the end of your presentation, there will be questions from all parties.

Ms. Lauri Sue Robertson: Okay, my thing is pretty short, actually. I am Lauri Sue Robertson. The company I own is Disability Awareness Consultants. We are a team of people with a wide variety of disabilities, and we do awareness training and site audits for barrier-free design. I go out and I talk to people about what they need to know on how to work with customers and co-workers who have physical, hearing, vision, speech, learning, intellectual, psychiatric, neurological, chemical sensitivity

or significant facial differences. We have people on our team who have some or all—at least one—of these disabilities. We go out and we talk about what we live with.

My objective here today is to tell you that we need this bill to be stronger. What we really want is for all the places in the bill where it says that they “can” use something, they “might” use something, or they “have permission” to do something to say “must.” It shouldn’t be somebody’s option as to whether or not we have access.

The story I want to tell you is a short one. This happened to me several years ago. You can’t tell now, because my arthritis is in a terrific remission, but I used a chair for 13 years. During the time when I was using my chair, I went to vote, as I do every year, because I’m a devoted NDPer. I tried to work in the polls, but I don’t have the stamina to do 12 hours. The polling place was Birch Cliff Heights Elementary School. It’s an old building with lots of stairs, but it’s got a sign on it that says it’s wheelchair-accessible, and my little voter’s card said that. I wish it had been the weekend, because I’d have had my husband with me to help me.

1300

I got there and I followed the little sign around, and I’m faced with a solid wall of closed steel doors, because the voting takes place in the basement of the elementary school, in the gymnasium. The doors lead out onto the playground, and for the safety of the children, these doors don’t have doorknobs; they don’t have a window; they don’t have a knocker—nothing.

I went up to the door. My arthritis in those days was bad enough that I couldn’t knock on the door very hard. I couldn’t get out my chair to bang on the door. I tried hollering through the door but nobody could hear me.

By the way, it was wintertime. There was snow all over the place.

I went back and sat in the parking lot until somebody else came along who was going to vote, and I asked this man if he would please go in and tell the people working in the voting to open the back door and let me in, and they did, which was great. I went in and I voted.

Then I spoke to the poll supervisor, I guess is the person who’s responsible for running the poll, and I told him that door should at least be open a crack so that somebody could holler in and say, “Come open the door for me.” He said, “I’m not going to make these volunteers wear their coats all day just so that people with disabilities can vote.” That’s a quote, and it stuck very firmly in my mind.

I think this law needs to be strong enough so that little tinpot dictators like that man can’t get away with telling people that they don’t have the right to come in and vote just because it might be inconvenient.

The polling place was theoretically accessible if the back door was at least cracked a little bit so that somebody could holler in, but he wouldn’t even allow that, because he didn’t want the people who were volunteering to have to sit there with their coats on.

That’s my whole little story.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have about three minutes each. I’ll go to the Conservative Party. Mr. Chudleigh? Ms. Jones?

Ms. Sylvia Jones: I guess I’m going to stay on the theme. You mentioned that if the voting had been on a weekend, that would have made it easier for you.

Ms. Lauri Sue Robertson: Yes.

Ms. Sylvia Jones: So you would support that amendment.

Ms. Lauri Sue Robertson: Oh, very much, because if I had my husband there, at least I’d have had somebody who could have run in quickly. I wouldn’t have had to sit there in the parking lot and just wait for somebody else to come along. So, definitely, the weekend would be far superior, as far as I’m concerned.

Ms. Sylvia Jones: Okay, thank you.

Mr. Ted Chudleigh: You’re familiar with a lot of what’s in this bill.

Ms. Lauri Sue Robertson: Yes.

Mr. Ted Chudleigh: Do you think it’s going to make a difference in Ontario?

Ms. Lauri Sue Robertson: If it’s strong enough, yes.

Mr. Ted Chudleigh: As it’s written, do you think it’s going to make a difference in Ontario?

Ms. Lauri Sue Robertson: It’s bound to make some. I don’t know if it’s going to make enough. I don’t know if it’s going to bring barrier-free access to people with disabilities. It’s going to make some, for sure, but we’d like it to go further. We need for it to go to a point where, like I said, it’s not an option for somebody to decide, “Oh, well, yeah, I guess I’ll keep the back door open and let them in.” He shouldn’t have had that choice. The bill should say that there must be accessible voting places; they must be kept available. It just shouldn’t be an option.

Mr. Ted Chudleigh: Thank you.

The Chair (Mr. Bas Balkissoon): We’ll move to Mr. Prue.

Mr. Michael Prue: Obviously, this boorish man who said this: Can you tell me whether this was a municipal, provincial or federal election, or do you remember?

Ms. Lauri Sue Robertson: I don’t remember, but it was probably provincial. I don’t really recall.

Mr. Michael Prue: What kind of training do you think these poll supervisors should have? Obviously, he would need sensitivity training.

Ms. Lauri Sue Robertson: Yes.

Mr. Michael Prue: But do you think that they all should have the kind of training so that they don’t have attitudes—even if some of them wouldn’t say it—that this man exhibited?

Ms. Lauri Sue Robertson: I think they should at least know enough that if they’ve got poor attitudes, they should keep them to themselves. They shouldn’t yell at people who are sitting in wheelchairs, which often happened to me when I used my chair, because people assumed, since I was sitting down, that I couldn’t hear or else couldn’t think. And they yell at my friend Sam Savona, whom many of you probably know, because he’s

a real activist who uses a motorized wheelchair and has a speech impairment because of his cerebral palsy. When people realize that Sam doesn't talk clearly, and they see that his face is somewhat distorted by his CP, they either ignore him or they scream at him. So, yes, disability awareness training, which I provide, is exactly what people need, to make the polls work better.

Mr. Michael Prue: I asked the last deputant—you were in the room—about disabled people working in the polls. I think there's no better example for people to see the abilities that someone has than to watch them in action, to see that they can do, given the proper tools, the same job as anyone else. It has been estimated that about—I forget the estimate—one in 10 people or so in Ontario has some disability.

Ms. Lauri Sue Robertson: Yes.

Mr. Michael Prue: Yes. I think that's fairly well known. Should we be striving to be an equal-opportunity trainer and employer and making sure that one in 10 people on election day serving in the polls has a disability, so that they have full access and that the public can see that they are involved in the process and have the same rights as everyone else?

Ms. Lauri Sue Robertson: I think that would be wonderful. Personally, when I wanted to do it—like I say, I don't have the stamina to do 12 hours straight, so when they told me that's what it called for, I said no. I would have loved to have worked in the poll, but I knew I wasn't going to be able to do it. Certainly in the years when I was using my chair, the bathroom wouldn't have been accessible and I'd have had a really hard time just being there for 12 hours.

Mr. Michael Prue: We've heard—again, every chance I get I'm going to ask this—that this may be an expensive proposition. Voting machines cost, I've been told, \$11,000. You have other types of voting machines; most of them tend to be high. As one deputant said, you need ones that are accessible for people in a chair. You may need sign language interpreters for the deaf and hard of hearing. You may need electronic or other devices for those who are sight-impaired. Should all of these things be available in the polling booth? Or as some in the government have suggested to me—not openly, not in the debate—that having the opportunity to do an electronic poll will suffice? Is it important to go out in person?

Ms. Lauri Sue Robertson: For a lot of people, it would be, yes. Maybe not for everybody, but certainly for some people it would be important.

If it's too terribly costly to start with, maybe you wouldn't have every polling place in every district accessible, but you should have one in each area that's accessible. I usually vote in the advance polls because the polls are held in a seniors' building that's near me and it's always accessible. The time I voted at the elementary school was the first time I had ever been there in my chair, because we had always voted at the seniors' centre. If that was the one they told me to vote at all the time, I probably would be fine with that.

So I don't know that every building we use has to be accessible, but you shouldn't have to go miles and miles away from your home and you shouldn't have to rely on the kindness of strangers to get in and vote or to be able to express your opinions.

Mr. Michael Prue: That is possible in a city like Toronto, Ottawa or Hamilton, a big city where, if not every one, then the next-nearest poll that did have it would only be a block or two blocks away. I'm thinking about rural or northern Ontario, where that simply is not possible. Should we be making every effort in those polls to make sure that they are all accessible and all have the required tools?

Ms. Lauri Sue Robertson: Absolutely. One thing that people don't realize is the number of people who live in rural areas who have disabilities, often severe physical disabilities—because farming is a very dangerous job. My husband comes from a farming community. Injuries in farming are endemic, and there are many people in the rural areas who don't get out and vote. Maybe it's too hard to actually get there. In many cases, where they would have to vote is maybe somebody else's farmhouse and they can't get in and they can't do it. So, yes, in polling places out in rural areas where there aren't a lot of them, every one of them should definitely be accessible, barrier-free, so that people can get in and vote.

The Chair (Mr. Bas Balkissoon): We'll move on to the government side. Mr. Sorbara.

Oh wait, don't leave yet.

Ms. Lauri Sue Robertson: Oh, sorry. I thought I was being dismissed.

Mr. Greg Sorbara: Not yet; not so fast.

Mr. Michael Prue: They heard you were a New Democrat so they really want a go at you.

Ms. Lauri Sue Robertson: I can talk for 15 hours straight, guys, so this doesn't scare me.

The Chair (Mr. Bas Balkissoon): Ms. Mangat has a question of you.

Mrs. Amrit Mangat: As you have suggested that this bill should be stronger, can you throw some light on how we can make it stronger?

Ms. Lauri Sue Robertson: Wording, I think, is very important. There are places in the bill where it makes it sound as though it's not required—they have voting machines, but it doesn't say they have to use them. They have accessible ballots, but it doesn't say they have to provide them. They've got to be provided. The stuff has to be readily available. I shouldn't have to beg and plead for access. I shouldn't have to plan it six weeks in advance. Sometimes it's very difficult to get in and just exercise your right to vote. It should be easier. After all, that's one of the big issues: Voter turnout is terrible. We want it to be better, and then we say to a whole bunch of the population—because at least 15% of the population has at least one disability—“Well, don't bother coming. It's going to be too hard. We can't be bothered to accommodate you.”

1310

Mrs. Amrit Mangat: Since you are a committed voter, do you experience those kinds of problems every time?

Ms. Lauri Sue Robertson: Depends upon whether or not it's snowing. Not every time, because sometimes I vote with other people, and many times I vote in the advance polls, so I go to the seniors' centre that's near my house—it's actually a retirement home—and vote there because it's always accessible.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to come down and join us—

Mr. Joe Dickson: I have one.

The Chair (Mr. Bas Balkissoon): Oh, you have another question? Okay. Mr. Dickson, sorry.

Mr. Joe Dickson: Through you to Ms. Robertson: I'm a little shocked that you had that problem getting in to vote. Obviously the person responsible was either naive, insensitive or perhaps even ignorant. That should—

Ms. Lauri Sue Robertson: All of the above.

Mr. Joe Dickson: —never happen. I wonder, did you have an opportunity to come up with one or two recommendations—other than going to a seniors' home, when you can, for the first level of voting—that would make that problem go away in the future?

Ms. Lauri Sue Robertson: Like Mr. Prue said, certainly awareness training for the volunteers and for the staff so that they are sensitive to the issues and so they realize, "Okay, our back door is not really accessible unless we keep it open, keep a door knocker in there or something, or even a doorbell"—something that people could use.

Mr. Joe Dickson: We're on the same vein, I think. Why wouldn't they have simply installed just a magnetic door buzzer on the outside of the door where the wire goes through that rings a little bell? You can rent them for about \$100.

Ms. Lauri Sue Robertson: Because it takes forethought. You have to be aware, first of all, that there's going to be a problem, and if the people doing the set-up for the voting don't even think about the fact that people aren't going to be able to get in or don't think about the fact that the guy running the poll may decide that it's too nasty to keep the door cracked open, then they don't think about the doorbell.

Mr. Joe Dickson: A legitimate concern. Thank you; that's very important.

The Chair (Mr. Bas Balkissoon): Thank you very much, this time, Lauri—

Ms. Lauri Sue Robertson: Now am I done?

The Chair (Mr. Bas Balkissoon): Thanks for taking the time to come down.

Ms. Lauri Sue Robertson: Thank you all.

DR. RICHARD GRECO

The Chair (Mr. Bas Balkissoon): The next presenter is Dr. Richard Greco. Come on up. Like everyone else,

you have 15 minutes. If you leave time at the end of your presentation, we'll allow questions from all sides. Please state your name for the record and then you can go ahead with your presentation.

Dr. Richard Greco: My name is Dr. Richard Greco. My focus is on accessibility in washrooms and voting booths from Queen's Park to electoral booths—that they're not wheelchair-accessible. That was my main focus, but I will say that my focus has changed. You want sensitivity training? I want to see you here on March 31 all in wheelchairs to see what it takes to buy a wheelchair; what it takes to get yourself in this building with a wheelchair; calling WheelTrans. That's part of my presentation. Why are we waiting for elections for things like non-accessible washrooms? I'll continue with my story.

Non-wheelchair-accessible washrooms from Queen's Park to electoral voting booths and Toronto city hall—subsection 4.4(2), paragraph 1 of this act: improving the voting process for electors. By having wheelchair-accessible washrooms, for many good reasons—like the gentleman before, if there are long lineups, where is someone in a wheelchair or a walker going to go?

Stuck in the washroom at Sunnybrook Hospital on the neurological floor; stuck outside the neurosurgery ward at Sunnybrook Hospital because there are no automatic door openers; stuck in the washroom in the basement at Sunnybrook Hospital because there is no physiotherapy bar on the right side of the toilet. Being paralyzed on my left side, I can't use the washroom. Yes, there is a bar on the left side, but I can't use it on the left because I'm paralyzed on the left.

Queen's Park, basement washroom: stuck there with a security guard watching me struggle with not going to the single disability washroom because of how the door opens.

Also, the men's washroom that is downstairs with an automatic door opener is good to go in and out of the washroom. Once again, the security guard watched me struggle to close the wheelchair-accessible stall door. Yes, there was a bar on the right, but I couldn't close the stall door.

I was at the CNE. I went to one of the men's washrooms, to the disabled stall, which is wide but not long enough. Kids were going by my stall with the door open. Because the stall was not long enough, I couldn't close the door—embarrassing and humiliating.

Am I getting your attention?

To all the elected members with disabled constituents: March of Dimes only has one washroom with an automatic door opener. It has an automatic flushing toilet, which sprays water on the toilet seat, which is disgusting, after you've cleaned the seat, as you move back.

I have directly talked to the maintenance supervisor and executive director, and she mentioned that when they had only one program, one washroom with an automatic door opener was good enough. Now they have many programs, yet they have made four other washrooms without automatic door openers and closers.

The other day, I was having a meeting at the March of Dimes. I saw a little girl trying to wheel herself into one

of the other washrooms in a manual wheelchair. You politicians go in a manual wheelchair and try to open any door, anywhere. She was struggling to get in. She was struggling so much, she couldn't turn on the light and she went to the washroom in the dark. Also, a garbage can is under the light. She banged her feet, getting to the light, so she didn't: I know she went to the washroom in the dark.

I went to visit a friend at the Trinity Bellwoods long-term-care place. I had to go to the washroom in the basement. I had to go, so I didn't worry about the door being manual. Guess what? I was stuck in the washroom once again. After a while, my friend came down because I was taking too long, and attempted to ram the door open with his wheelchair so I could get out. Every door to the Bellwoods apartments has an automatic door opener, but the basement washroom doesn't.

Go to the Lyndhurst hospital, and the inaccessible Canadian Paraplegic Association's west office and washrooms, and the new Easter Seals office's inaccessible outside door. I only got in because some people were smoking outside and they opened the door for me. Go to Toronto city hall, ground level, and go to the washroom by the library, then go to the washroom by the elevators, and then go to the second-floor men's washroom: very difficult to go in and out. Go to Toronto rehab at University Avenue: first floor, second floor, seventh and eighth floors, and try to get in the washrooms in a manual wheelchair. Then go to any movie theatre and try to go to the washroom. Then go to any hotel and check out the washrooms by yourself, and see if you don't get stuck.

This brings me to the electoral booth at 44 Jackes Avenue in Toronto, in the party room. That's where I reside. The outside door is propped open by a stone, and the inside door is closed. Then there is a two- to three-inch drop to get into the party room. There is no wheelchair-accessible washroom.

So if you, the committee, can put automatic door openers on the doors, and add a ramp and a wheelchair-accessible washroom, that will allow me more freedom to go and vote.

Also, Toronto will be hosting the Pan American Games and the Parapan American Games, so I'll be trying to make all parts of Toronto and the province barrier-free as we accommodate the world.

Standardize all washrooms according to the building code and beyond the building code. I have the building codes in my hand; an architect gave them to me. They're very poorly written for wheelchair-accessible washrooms.

I am not waiting until 2025. This year would be a good year to get these requests done immediately.

I went to the Charles Beer presentation on AODA. I heard Mr. John Rae speak and ask Charles Beer if these changes could occur way before then so that he could see the change sooner, because, being 78 and blind, he didn't think he would be around in 2025.

1320

I'm inspired by his presentation, and I hope you are, to get things done immediately.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have about two and a half minutes each. I will start with Mr. Prue.

Mr. Michael Prue: You pointed out, I think, that one of the very few faults with the Accessibility for Ontarians with Disabilities Act is that it doesn't come into effect fully until 2025. When I was asked, as the disabilities critic for the NDP, to stand up all those years ago, the very first thing that I spoke of, when it was introduced, was: why so long, to 2025?

The Ontario government, in my view, should be leading by example. Should all of these government buildings, all of these MUSH sector buildings that we fund—should they be made to bring the washrooms and other facilities up to standard, well in advance of 2025?

Dr. Richard Greco: Even the seats you're in—I've been in many committee rooms. There are all these seats but no wheelchair can fit in them. Go to Lyndhurst hospital, in the basement, when they have seminars. They have seats all around, but we have to manoeuvre all the wheelchairs around. The rooms should be big enough to accommodate wheelchairs and these chairs also. Absolutely.

Everything needs to be looked at, way before electoral day. Then we know people want to vote for things being addressed.

Mr. Michael Prue: I've asked some of the others a question; I'd like to ask you too. The lady from Kitchener said that she has been a poll clerk. I very seldom see people in chairs or with disabilities acting as poll clerks. Part of the problem is the washrooms, because it's a 12-hour job.

Should we be attempting to get people like yourself to work on election day? Would that interest you, if you had proper facilities?

Dr. Richard Greco: Yes, sure. I've been paralyzed only four years. I drank poisoned blueberry juice and I became paralyzed. I'm only just understanding the needs of the disabled. I used to adjust people; I adjust buildings now.

I go to many people and talk to owners and people in city hall nearly every week to say that things have to change. Places are burning down and new buildings are built, and they're not making them wheelchair-accessible. Who is accountable for when something is not wheelchair-accessible? Answer that to me.

Mr. Michael Prue: The government and the elections commission in Ontario check out buildings for wheelchair accessibility. Should we also ask them include accessible washrooms in the accessible places?

Dr. Richard Greco: And accessible entrances.

Mr. Michael Prue: Right now, I think they understand they have to have accessible entrances, even if they haven't in the past. They understand that we want those now. Should we include accessible washrooms and accessible machines and everything else accessible in all of our facilities?

Dr. Richard Greco: Yes, and get you guys in wheelchairs and see what it's like. That will be your sensitivity

training, whether you do it once a week or whatever. Go through the process of being in a wheelchair, and then you'll move this faster, this bill and these things that have to change, and you don't want to wait for electoral day.

You see how stuck I've been, from hospitals to hotels to different places, just around wheelchair-accessible washrooms.

I'm a teacher; I'm a doctor. I'm not sure I'll be able to teach again because I'm not sure schools are wheelchair-accessible. I'm not getting accommodation from Toronto District School Board around accommodation for a person with a disability. I only have one arm to use.

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move to the next question: the government side. Mr. Dickson?

Mr. Joe Dickson: Doctor, you're referencing accessible washrooms by wheelchair, and the entrances and whatnot. You were asking the question about why they don't make these changes. In fact, the entrances are law, and have been law for a number of years. Once the building owner or landlord has to make a modification to the front—might want to do an expansion, an upgrade—that, unfortunately, is the only point at which they are forced to make that change. They must do it. It's provincial statute and it's controlled by the municipal bylaws.

I have a question for you. There are other changes where a building may never make a change. They might stay there for another 100 years.

Dr. Richard Greco: That's why I'm here.

Mr. Joe Dickson: Do you see putting some type of time frame on that, that it should be implemented for the betterment of everyone who is in a wheelchair?

Dr. Richard Greco: Yes. I see the Progressive Conservative stimulus fund for changing people's old houses and going to Home Depot to do that. Why don't they have a stimulus process for everyone, every building in all of Canada or Ontario, creating a stimulus to make your place wheelchair-accessible? I'm talking to architects about why they don't build ramps to go into houses so that mothers can go down with carriages and people who are in wheelchairs, right from birth all the way so they can move in their house and live in their house. You don't want to be in a hospital.

Mr. Joe Dickson: Do I have time for one more question, Mr. Chair?

The Chair (Mr. Bas Balkissoon): Yes.

Mr. Joe Dickson: Doctor, if I may, because you're becoming a spokesperson, maybe you can answer this for me. On many elections, particularly municipal and regional, I will have a number of friends call me who are either mentally or physically challenged, and I will take them there. At the last federal election I went to, I had two gentlemen whom I went and picked up and took there. I went to the booth with one of them, as I had always done. I went to go with the second person, and I was stopped. I don't know if you're aware of this, and I'm kind of looking to you for some insight. I was stopped, and they said, "No, you can only go once." These are two dear friends, and I've always helped to get them there. I just wonder if you have any thoughts on

that. Do you see anything wrong, if you, as an example, went to assist more than one person who you had personally driven to vote?

Dr. Richard Greco: No. I think that if you're that caring person who's willing to help people out—unless they're saying that you're influencing their vote in some way. That's the only thing I could see. If you're a caring person and you're one to—like me, I volunteer at Anne Johnston. I'm speaking for people at Bellwoods. I go to pitch for them, and I go, so—

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move on to the next question. The opposition, Ms. Jones.

Ms. Sylvia Jones: Dr. Greco, thank you for appearing. I wanted to ask you some questions specifically related to Bill 231 and some of the proposals that are coming forward. The Chief Electoral Officer made reference to special ballots, which would be ballots by mail and home visits. Are those things that you would support in the legislation going forward?

Dr. Richard Greco: Sure, those would be helpful. But, again, a person like myself likes to get out and make a difference. You like to get out and cast your ballot so that you're not locked in.

Ms. Sylvia Jones: Absolutely.

Dr. Richard Greco: I'm just getting out today. That's all I'm doing. I'm just getting out.

Ms. Sylvia Jones: You're making a strong case. Thank you.

Dr. Richard Greco: Thank you.

Mr. Ted Chudleigh: Just one short question, to thank you for coming, and I know this building is not particularly handicap—

Dr. Richard Greco: I came here on Friday specifically for that, and I let security watch me struggling to get into the washroom. See, even that: There is an opportunity for—this should be an ongoing process. What I see when I go to Lyndhurst and different hospitals is that they've stopped. They've built the building. This should be an ongoing communication with all disabled.

I've talked to some people on the ODA. I said, "I want to be part of the committee." They said, "The committee is over." I said, "The committee is over? No, it's on an ongoing daily basis." It should be talking to the disabled on a weekly basis. I went to Bellwoods. I'm dealing with a gentleman there who had a workers' comp case, and it has been 16 years that he has been waiting for things to change. It has to be on an ongoing basis. He's going to have major surgery done, and he doesn't know if he can even stay at Bellwoods; he doesn't know. His life is in the air, and I'm trying to do whatever I can for him to help his life be in a better place.

The Chair (Mr. Bas Balkissoon): Thank you very much for coming down.

REV. PETER HUGHES

The Chair (Mr. Bas Balkissoon): The next deputant is Rev. Dr. James Peter Hughes. Just give us a second to allow Dr. Greco to move out.

Come on up. You can take any chair. You have 15 minutes for your presentation. Please state your name at the beginning of your presentation. If you leave any time at the end, I will allow questions from all sides.

1330

Rev. Peter Hughes: Okay, thank you. My name is Rev. Peter Hughes. I am a Canadian citizen born only a few blocks from here. As an infant, I had polio, and I was hospitalized at Sick Kids in 1953. I had a fairly good recovery: I was eventually able to walk, though always with a limp. I served for several decades as a Unitarian Universalist minister. During the last 15 years, I have experienced post-polio syndrome, which has given me increasing disability and caused me to retire from the ministry. Since 2007, I have been living near here in Toronto Centre.

As a physically disabled citizen, I would like to talk to you about the need for regulation to ensure that polling places be fully accessible to all voters so that all might exercise their franchise without having to undergo strenuous ordeals or assaults upon their dignity. As an example of this, let me relate to you my recent experience in trying to vote in two federal elections: the 2008 federal by-election and subsequent federal general election.

In order to get to my polling place, I had to climb up a long, steep slope with my walker then wend my way around a large, sprawling building. The signs—and these weren't handicapped signs—led me to a door where I was confronted with a staircase. I had to release my walker and go down the stairs on the seat of my pants. When I finally got into the polling room, I found that the tables were arranged so that people with assistive devices could not get to the places where ballots were to be marked and cast.

When I finished I was directed to another door to which outside signs did not point. This door had a ramp, but this I could barely get to because of the heavy steel doors leading to it, out of which only one was operable. I had to fold up my walker to squeeze through the door, and when I did, I stepped into a snowbank. The ramp had only been partly cleared of snow, and the narrow path, not wide enough for walkers or wheelchairs, led to the inoperable side of the double doors. In addition, the ramp was steep, meant only as a loading ramp and nowhere near the standard set for handicapped access.

After I made a formal complaint, I found the situation remained largely unchanged at the next election. As it was a warmer season, the snow wasn't there.

Taken aback that such a situation could be allowed to exist, with legal assistance I again complained to Elections Canada. I was sent back a response doubting my veracity and claiming that the building was, in fact, accessible. Then I complained to the Canadian Human Rights Tribunal. Only then did Elections Canada begin to look into the matter and begin to discover how inaccessible their polling station was.

After a hearing in the fall of 2009, a decision was handed down giving orders to Elections Canada regarding the conduct of future elections. The orders resulting

from my complaint to the CHRT instruct Elections Canada that there must everywhere be barrier-free polling places, together with a verification system to ensure that they are accessible. There must be consultation with disabled voters, a review of their accessibility guidelines, a new standard lease for polling stations ensuring that they have level access and are barrier-free, a procedure for receiving, recording and processing verbal and written complaints about the election process.

When I complained, they originally told me that no one in 20 years had sent such a complaint to them, and then we found out that there was no system for receiving complaints. So of course, they didn't get any complaints.

This is not only a federal problem. In the recent Ontario by-election in my district, various disabled voters had difficulties voting that were very much like those I encountered in the federal elections. There may well be—and should be—cases taken before the Ontario Human Rights Tribunal.

I'm willing to grant that most and perhaps even all the people concerned in these federal and provincial elections have the best of intentions. They honestly supposed that some of these polling places were accessible. But they did not test these suppositions by having someone try to enter these premises in a wheelchair, and thus, they were quite frequently mistaken.

As a government and as a people, we've left everything up to good intentions, and good intentions, I believe, are not enough. We must have clear and strict requirements as to how polling stations should be chosen, set up, marked and equipped, or we will have countless polling places advertised as accessible that in fact are not. These requirements must be universal and enforceable. They cannot be left up to discretion and interpretation, for those interpretations will vary and many will be made by people who have little or no expertise into what it is like to be disabled. Therefore, it is up to legislators to craft clear and specific requirements.

According to the Accessibility for Ontarians with Disabilities Act, there should be processes going on over the next 15 or 20 years to improve accessibility in all walks of life, with the goal of making Ontario fully accessible. Crafting a new Ontario Election Act provides a great chance to make the process of voting accessible to all of Ontario's citizens. Yet the current bill addresses only a few of the obstacles to voting—it certainly doesn't deal with physical accessibility—and those aspects it discusses, it leaves largely up to the discretion of officials, a discretion that, in my experience, has so far clearly failed at federal and provincial levels.

Given an opportunity to meet the goals of the AODA, I think we should not put off for years full accessibility, but we should propose effective regulations now. I think we should have Bill 231 discussed and analyzed by people who are experts on accessibility, including those who know the situation of disabled folks best: the disabled electors. We must level the playing field, literally. We must do so by making voting a right and barriers to voting a wrong—a wrong that is clearly identifiable and correctible.

To assist you in considering amendments to Bill 231, I've copied excerpts from the recent Canadian Human Rights Tribunal decision, to which I have referred, dated February 12 this year, containing systemic remedies ordered against the federal government by the Canadian Human Rights Tribunal. My recommendation is that you be proactive and consider these orders while revising Bill 231 to help avoid a similar outcome in this jurisdiction. The full text of the ruling is available online at the Canadian Human Rights Tribunal website. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much. If I could get to my clock, we have about four minutes each. We will start with the government side. Mr. Sorbara.

Mr. Greg Sorbara: Reverend Hughes, I just want to ask you one question that doesn't relate directly to your submissions, which I think were very articulate. You make a strong case for looking at the issues of accessibility further as we complete this bill.

1340

You may have heard earlier on the Chief Electoral Officer arguing for perhaps weekend voting, Saturday and Sunday, and it sounds like some members of the Conservative Party agree with that. We had lots of discussions on this during the work of the select committee. We prefer the tradition in Ontario of not voting on those days of the week which are, for some parts of the community, seen as holy days: Sunday, in the Christian tradition; Saturday, in the Jewish tradition; Friday, in the Islamic tradition. Indeed, in the 2007 election, we actually moved the date of voting to avoid having a voting day on a day that was considered within the Jewish faith as a holy day.

You've had lifelong experience as a minister. Would you recommend that we move towards having voting on weekends, on days when some members of the community might feel it against their faith, actually, to exercise their vote?

Rev. Peter Hughes: I would think that it would be inconsiderate to do so. In my particular faith, I wouldn't have a problem with myself voting. Nobody in my denomination would have trouble voting on a Sunday, for example. But we would feel that other people would, and we wouldn't like to have anyone discriminated against. I think there are many people who feel quite strongly about that.

I would hesitate to have voting on a day, whether it be a regular day of the week, like Saturday or Sunday or Friday, or whether it be a special time of year—if you did it during the Jewish high holy days or something like that. That would be something that I think would cause people a conflict and would make them feel somewhat insulted.

The Chair (Mr. Bas Balkissoon): Pardon me, Mr. Sorbara. I did make a mistake. It was two minutes each, so I have to move on.

Mr. Greg Sorbara: I'm done.

The Chair (Mr. Bas Balkissoon): Thank you. The opposition: Ms. Jones?

Ms. Sylvia Jones: Just to carry on, on that: One of the reasons why I have been asking presenters whether they feel that a weekend vote would make it easier to find those accessible buildings and rent them out—that was the question to presenters, and I will now ask it to you. Do you believe that choosing a voting day on a Saturday or a Sunday would make it easier to find those barrier-free buildings?

Rev. Peter Hughes: I believe there are many barrier-free buildings. I think that having it on a weekend probably wouldn't make a great difference in that regard. I think that you can find buildings on weekdays. There are plenty of apartment buildings, condominiums, places of business where you can rent space that I think can be made available on weekdays. I don't think it would probably make that much difference.

The one effect, actually, of, say, holding it on a Sunday would be that you couldn't hold it in some of these churches. The place I've tried to vote in was in a church. A lot of these places are grandfathered: They don't have proper access and so forth. So if you had it in more modern facilities, it would be better.

The Chair (Mr. Bas Balkissoon): Thank you very much. I've got to move on to Mr. Prue.

Mr. Michael Prue: First of all, I want to congratulate you, sir. Not many people would go back twice and then go to the Human Rights Commission and go through everything you did in order to get this order. That's the first thing.

Rev. Peter Hughes: Thank you.

Mr. Michael Prue: The second thing is, as I read this order—and I've not read it before—it seems that everything that was ordered in your case is something that is doable and should be done by the province of Ontario. Would you agree with that?

Rev. Peter Hughes: I would agree with that.

Mr. Michael Prue: I'm not so sure the province will want to pay compensation, but maybe we'll never have to, if everything else—

Rev. Peter Hughes: I encourage you to do something so that you don't have to pay people compensation.

Mr. Michael Prue: Exactly. There's monitoring and consultation; there's consultation with voters with disabilities; there's verification of the accessibility of the facilities; there are policies and guidelines; the option for standard lease of polling locations—if they can't find something that is accessible, to lease something else; the signage, the training—it's all here. Should this committee be making recommendations consistent with this order?

Rev. Peter Hughes: I think you should; that's why I brought it in. What is learned in one place—elections in Canada and elections in Ontario are the same process. They involve people going to the polls to vote, and there's nothing essentially different between the two. One's rights of citizenship—it's equally important to exercise your rights as an elector in Ontario as it is in the federal government. They operate on different levels; they control different aspects of our common life. People with disabilities should have equal access to being part of

the electorate that elects our legislators, that helps make decisions.

The Chair (Mr. Bas Balkissoon): Dr. Hughes, thank you very much. Thank you for coming forward and presenting to us today.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Bas Balkissoon): We'll move to the next presenter, the Ontario Federation of Labour: Terry Downey and Duncan MacDonald. Like everyone else, you have 15 minutes for your presentation. Please state your name for the record, and if you leave any time at the end of your presentation, we will go to questions from all sides.

Ms. Terry Downey: Thanks for having us. Good afternoon. My name is Terry Downey and I'm the executive vice-president for the Ontario Federation of Labour. With me is Duncan MacDonald, who is a director of many issues, including disability issues, at the Ontario Federation of Labour. Also, I would just let you know that in my former work life I worked at the Ontario Human Rights Commission for 18 years and dealt with many issues on disability.

I welcome the opportunity to present our concerns to you today. The Ontario Federation of Labour is appearing before you to discuss the proposed Election Statute Law Amendment Act, Bill 231.

From our perspective, this proposed legislation must be strengthened. Our brief comments draw on our longstanding support for democratic institutions such as voting and our commitment to making Ontario a more inclusive society for all Ontarians.

The federation constitutes the largest provincial labour federation in Canada, and our hundreds of thousands of members work in all economic sectors in communities across Ontario.

Since our inception in 1957, our constitution has been to protect and strengthen our democratic institutions, to secure full recognition and enjoyment of the rights and liberties to which we are justly entitled, and to preserve and perpetuate the cherished traditions of our democracy and working people. We also seek to preserve the independence of the labour movement from political control; and to encourage workers to vote, to exercise their full rights and responsibilities as citizens and to participate and perform their rightful part in political life, whether it's to do with municipal, provincial or federal legislation.

In our experience, one of the groups that face systematic challenges in exercising their full rights and responsibilities as citizens are persons with disabilities in Ontario. From the early 1960s to the present day, our members who identify themselves as members of this community have brought their concerns about persons with disabilities in Ontario forward. Through such forums as our conventions, these concerns have been discussed and incorporated into our vision, and we have made many accomplishments and are much better for it. Existing legislation at both the federal and provincial

levels such as the Charter of Rights and Freedoms, the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act outline the rights of Ontarians with disabilities.

Our hope for this proposed bill is to make elections in Ontario more accessible for all Ontarians, a goal succinctly put forward in the presentation to the standing committee—which I hope you've heard already, because I haven't been here all day—from the Accessibility for Ontarians with Disabilities Alliance, and if not, you will hear a great presentation from them, because, "Persons with physical, mental or sensory disabilities, whether the disability is visible or invisible, would be able to independently and privately mark their ballot and verify their selection."

1350

"Persons with disabilities would have full and equal access to all information on where and when to vote and on choices of candidates."

"Persons with disabilities would have full access to polling stations or accessible alternative means to vote when access to a polling station isn't possible."

"Persons with disabilities would have full access to election platforms and other public information from candidates."

"Persons with disabilities can fully participate in all candidates' debates."

"Persons with disabilities can fully participate in elections as candidates, without" any restrictions on "the funds that can be spent on accommodating the candidate's disability-related needs."

The federation is supportive of the presentation from the Accessibility for Ontarians with Disabilities Act Alliance concerning Bill 231, because that's particularly what is most important to those folks who have disability rights and needs.

What is needed in this proposed legislation is the means to ensure the removal and prevention of all barriers which impede voters and candidates with disabilities in both provincial and municipal elections. What's also needed is effective monitoring and enforcement—as a former human rights officer, I can't tell you how important enforcement is—to ensure that there's full compliance in removing and preventing these barriers.

I'd like to talk about the Ontario government's need to be more responsive and accountable for elections accessibility. During the 2007 provincial election, the McGuinty government promised the AODA Alliance that they would develop an accessible elections plan. I understand that both the Progressive Conservatives and the New Democratic Party made similar commitments. The date of the next provincial election, as we already know, is October 6, 2011. We believe that a strengthened Bill 231 must begin the process for this upcoming election.

There does not seem to be, by our understanding, one minister in the McGuinty government who has overall responsibility for accessibility for elections. The result is that Bill 231 inadequately addresses concerns about provincial elections, while municipal elections, over which the provincial government has legislative author-

ity, are dealt with inadequately in Bill 212, which is the government's good-government legislation. This is an issue which must be addressed as quickly as possible.

There is a need, we believe, for a periodic review and public reporting of the accessibility improvements under Bill 231. By way of example, the Accessibility for Ontarians with Disabilities Act includes provisions for an independent review of the effectiveness of the legislation.

Bill 231 should incorporate both provincial and municipal elections. It should amend the provincial legislation that governs municipal elections and require comparable standards for accessibility of municipal elections.

I want to talk a bit about the exemptions from the provisions of Bill 231. Section 4 of this proposed legislation appears to be, in our view, too broad: broad enough to let Elections Ontario exempt itself from accessibility requirements. This is inappropriate and should be amended. Clearly, we must state that Elections Ontario and the Chief Electoral Officer do not have the authority to exempt themselves from the accessibility requirements in the Election Act or other legislation.

We believe the role for Elections Ontario—section 32 says, “The Chief Electoral Officer may study methods of,

“(a) improving the voting process; and

“(b) facilitating voting by persons with disabilities.”

This should be strengthened to require such research and to make the findings public. There are no provisions for the Ontario government to fund such an endeavour. Such research should include experiences in other jurisdictions. We must be prepared to understand and learn from our own experiences and those of others in order to continue to improve our electoral process and the active involvement of all Ontarians.

I'm just going to talk a bit about accessible polling stations. I can tell you that in the polling stations that I've been in—and I vote every election—I don't see too much accessibility there. Even as a sighted person who has a slightly hidden disability, I would find it better to have more accessible polling stations.

Let me describe the concerns that we have: Bill 231 does not impose any requirements that all polling stations are fully accessible to voters with disabilities. It's left to Elections Ontario to choose the polling stations. After the 2007 provincial election, a post-election survey was conducted by Ipsos Reid, which outlined concerns, such as physical accessibility of polling stations, signage identifying the location, the process of voting, privacy and the ability to communicate with staff. Concerns have been raised about the accessibility of polling stations, as you know, in the Haliburton-Kawartha Lakes-Brock by-election. The most recent case was during the Toronto Centre by-election in February 2010, a few weeks ago.

Bill 231 takes a “trust Elections Ontario” approach. A more appropriate approach would be to amend the bill to institute detailed requirements to ensure full accessibility of all polling stations. Such a requirement should be developed in consultation with Ontarians with disabilities. These requirements should and must be in place before October 6, 2011.

Balloting: The most common form of voting, as we know, is paper ballots. The template or overlay, which may be used by voters with low vision, presents challenges, even to myself, to ensure that their vote goes to their preferred candidate. To make sure, they may have to ask a sighted person to check their ballot. This results in a loss of privacy for this voter, something many other voters do not have to experience. Bill 231 must be amended to require that all ballots use large print font to enable as many voters with low vision as possible the opportunity to vote independently.

Accessible voting machines are needed to allow Ontario voters with disabilities to exercise their right to vote. Section 23 of this proposed legislation permits machines but does not require them to be used. Elections Ontario has done research on this issue and has a prototype, which, to my understanding, is priced at about \$11,000. There's no government commitment to provide this kind of technology, so it may not be in wide usage. There may be other appropriate technologies that could also be appropriate, such as over-the-phone voting, which could prove to be useful. Bill 231 must be amended to provide a date when accessible voting will be available for Ontarian voters.

Elections Ontario should consult with Ontarians with disabilities to make public its plans for such technology. We believe Elections Ontario should make the public aware, through accessibility formats, the availability and location of accessible voting technology. There must be consultation with persons with disabilities after the deployment of such technology, to make public the feedback and the changes that need to be made because of this feedback.

Section 25 of Bill 231 provides for a special ballot; that is, a mail-in ballot for a voter. Section 45 addresses the home visit, which determines if a voter is entitled to a special ballot. Bill 231 must be amended to broaden the criteria for home visits to remove barriers to their use. There must be a timely right to appeal if Elections Ontario refuses to provide a home visit for a special ballot. Special ballots and voting procedures must ensure that the voter may independently mark their ballots and verify their choice. This is an issue of dignity.

In conclusion, our brief remarks have suggested improvements to this proposed legislation. These suggestions are consistent with our commitment to democratic institutions and making Ontario more inclusive for all Ontarians. This proposed legislation must address the needs of Ontarians with disabilities. This will only happen if they are actively involved in this process from the very beginning. It is not too late to listen to Ontarians and to improve this proposed legislation so that it does address important issues in a meaningful and positive way. Thank you for allowing us to speak today.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have about 30 seconds each.

Ms. Terry Downey: Oh boy. Sorry about that.

The Chair (Mr. Bas Balkissoon): We will start with the opposition party. Ms. Jones, Mr. Chudleigh, do you have any questions?

Mr. Ted Chudleigh: I was going to ask you how you felt about third party funding, but the time limits probably aren't long enough for you to give a succinct answer, other than you wholeheartedly support them.

1400

Ms. Terry Downey: Okay. Sorry about that.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: In 30 seconds I can only say thank you very much. It was well detailed and very well put together, and I thank you for your efforts. We hope to try to incorporate your suggestions.

Ms. Terry Downey: Okay. Thanks.

The Chair (Mr. Bas Balkissoon): The government side. Nobody?

Thank you for coming and making your presentation.

CITIZENS WITH DISABILITIES—ONTARIO

The Chair (Mr. Bas Balkissoon): The next presenter is Citizens with Disabilities—Ontario: Terrance Green and Tracy Odell.

Ms. Tracy Odell: My name is Tracy Odell. Terrance Green is in Ottawa, so I am speaking this afternoon on behalf of him as well as on behalf of Citizens with Disabilities—Ontario.

Citizens With Disabilities—Ontario was incorporated in 2005 under the Ontario Corporations Act. Since being incorporated, we have grown, from an organization with a handful of members in the GTA, to represent members in almost every electoral riding in Ontario. Our members have a variety of types of disabilities: mobility, vision, hearing, mental health, learning and developmental. Because of our cross-disability representation and our membership base—well-established in almost every electoral riding—the Council of Canadians with Disabilities recognized our organization and appointed us as its provincial representative for Ontario. We are proud of our growth and of this recognition.

Citizens with Disabilities—Ontario is committed to the rights of all persons to participate fully in the civil, cultural, economic, political and social life of our communities. CWDO actively promotes the rights, freedoms and responsibilities of persons with disabilities through community development, social action and member support and referral. Our primary activity is public education and awareness about the social and physical barriers that prevent the full inclusion of persons with disabilities in Ontario.

In preparing this submission, we asked ourselves, "What is the intent of Bill 231?" In a free and democratic society, every person has the right to vote. Ontarians with disabilities are no exception; in fact, this right is protected in the Charter of Rights and Freedoms and is reflected in the preamble of the Ontario Human Rights Code.

Bill 231, in the opinion of CWDO, does not meet any objective or spirit of ensuring that Ontarians with disabilities can be included in future elections and electoral processes. Unfortunately, through the use of permissive language like the word "may," Ontarians with disabilities

could be further excluded from participating in the electoral process. Authorizing an elections officer to have accessible equipment is not the same as requiring it to be in place.

We commend the government for its efforts to accommodate persons with disabilities through special election equipment, even to visit our home if necessary to cast our vote. However, CWDO's goal would be to ensure that the need for such extreme measures as a visit at home would be few and far between. The more accessible the process is, the fewer extraordinary measures will be required.

The Premier committed to a review of all legislation and made this commitment publicly to the AODA Alliance. The purpose of the review was to identify and remove barriers in existing legislation. It is just as crucial that new legislation proposed does not create new barriers, and that we use such opportunities to enhance accessibility.

We support the recommendation of the AODA Alliance to strengthen Bill 231 to:

(a) make it effectively ensure the removal and prevention of all barriers impeding voters and candidates with disabilities in provincial elections;

(b) make comparable provision requiring removal and prevention of the barriers that impede voters and candidates with disabilities in municipal elections—these are typically the same barriers; and

(c) provide effective monitoring and enforcement to ensure that there is full compliance with these accessibility requirements.

CWDO knows that Ontarians with disabilities want to participate in community life. Could anything be more basic than the right to vote and have assurance that your vote counts? Ask women who fought for our right to vote, and ask people of African descent who fought through the civil rights movement. A lack of an accessible polling station and voting facilities is the same thing as saying, "No persons with disabilities allowed."

We must have the opportunity, if we wish, to put our names forward for election. We need to be able to find out who is running in elections, the candidates' positions on issues, and the policies the candidates are putting forward to the voters.

We need to be able to go to our polling stations. We need to get into the facilities with dignity, cast our ballots with our right to privacy and be assured that our votes will be counted.

The proposed amendments in Bill 231 do not protect the rights of Ontarians with disabilities to vote. The Legislature needs to review this proposed bill with an accessibility lens to determine if it is creating new barriers or helping to remove barriers already in place.

CWDO believes that Bill 231 has good procedural amendments that will help to clarify the electoral procedures. However, there is nothing to correct the access barriers that have prevented, and will continue to prevent, Ontarians with disabilities from being able to exercise our right to vote.

So, for our accessibility lens for this legislation, we asked a number of questions, and we would suggest that you ask these questions in reviewing it, as well:

Which of these amendments will give Ontarians with disabilities access to the initial procedures of registering our names to be considered in an election?

What amendments in Bill 231 assure Ontarians with disabilities that the campaign materials of candidates will be accessible to us?

What amendments in Bill 231 assure Ontarians with disabilities that the public all-candidates meetings will be accessible to us?

What amendments in Bill 231 assure Ontarians with disabilities that our polling stations will be accessible?

What amendments in Bill 231 assure Ontarians with disabilities that the procedures at our polling stations will grant us the access required to vote independently and privately so we will have a secure voting procedure?

CWDO recommends the addition of one more amendment to Bill 231. This amendment would ensure that access issues, regardless of type or severity of disability, are considered in each and every step of an electoral procedure. This recommended amendment is:

“Add in the definitions section of both the Ontario Elections Act and the Elections Finance Act the following:

“‘access’ means compliance to the accessibility standards set out in regulation under the Accessibility for Ontarians with Disabilities Act.”

CWDO is well aware that currently the only accessibility standard is set out in Ontario regulation 429, that being the accessibility standards for customer services.

We also are aware that the accessibility standards for information and communications have gone through the process, as CWDO participated in that process, and the proposed standards are currently with the minister's office.

The proposed information and communications standards do cover most issues in respect of access to information, like websites and printed materials. However, a candidate for an electoral process is not a business, nor are they a government department, and therefore the standards may not apply to them.

CWDO submits to this committee that by including such a definition in the legislation, the procedures that candidates would have to follow in the future would become more accessible.

CWDO is also aware that the proposed accessibility standards for the built environment would include the basic requirements for public space to become accessible for Ontarians with disabilities, once proclaimed. CWDO is just as aware that polling stations are in buildings that are not captured by these standards, once proclaimed. CWDO also participated in the development of these standards. Like the proposed information and communications standards, these too are currently before the minister.

CWDO submits to this committee that by adopting such a definition into the legislation, the requirements

would include that physical barriers to Ontarians with disabilities would be removed, as locations would have to be found that were accessible.

1410

In summary, it is CWDO's position that the amendments in Bill 231 do little to protect Ontarians with disabilities in the electoral procedures. It is CWDO's assertion that by referencing the accessibility standards being developed under the AODA and by making sure that the reference includes each aspect of elections, from nominations of candidates to the completion of the polling process, Ontarians with disabilities would enjoy greater access in Ontario elections—access we deserve, as citizens of this province.

Thank you for giving CWDO the time to bring forward concerns of Ontarians with disabilities. We trust that you will seriously consider this single recommendation of CWDO.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have about a minute and a half each, and we will start with the opposition.

Ms. Sylvia Jones: I don't have any specific question other than a general one about the special ballots and the home visits—whether you see that as a good amendment to Bill 231.

Ms. Tracy Odell: I think it's a good amendment. We would hope the home visit, particularly, wouldn't need to happen very often because we see that being fraught with difficulties in terms of implementing it. Will you need to be visited by eight different people if there are eight different parties represented on the ballot, for instance? Is there potential for coercion when you're in people's private homes? If you're going to help the grandmother to collect her vote, are you going to have to do everyone else's in the family at the same time? So, then, is everyone going to want a home visit? We just see that as fraught with difficulties both from the point of view of having to deliver it and having to receive it.

Then, once that vote is cast, how do you know it really got into the ballot box? There's still that concern.

Ms. Sylvia Jones: Okay. In the beginning of your deputation, you make reference to, “Which of these amendments give Ontarians with disability access to the initial procedures of registering our names to be considered in an election?” Can you expand upon that? I'm not clear on what you're referencing.

Ms. Tracy Odell: In going through a line-by-line review, we were looking for some specific references for what would allow persons with disabilities to have better access. That was the accessibility lens that we were applying, and we weren't able to find specific mention in the bill, as it was written, to ensure that that would be done in a more accessible way.

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move on.

Mr. Michael Prue: There's one particular section that intrigues me here, and that is the holding of all-candidates meetings and the ability of people with disabilities to attend, to be heard, to understand. How do

we put that in the legislation that would force groups, such as homeowner associations, school/parent groups, who traditionally hold these meetings, to ensure that they're accessible? How does the legislation force them to do that? Because I'd like to be able to do it; just tell me how.

Ms. Tracy Odell: Certainly you folks are the law-makers. I'm not the lawmaker, so I leave the details to you, but I think that there is a concern in the democratic process if you have an all-candidates meeting that is not permitting certain people to come in the front door. If we said that people of a particular culture or race or religion were not welcome to come in, I think that that would be a problem. Similarly, if it's in an accessible facility, if it doesn't have sign language interpretation associated with it, if it doesn't have materials in alternate formats, we're basically saying the same thing. It may be that to hold a lawful all-candidates meeting, those criteria must be met.

Mr. Michael Prue: Okay—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move on to the government side.

Mr. Michael Prue: The next one was a good one too.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara?

Ms. Tracy Odell: Better start with your best question.

Mr. Greg Sorbara: I just want to carry on along the line that my friend Mr. Prue was asking about, and that is the issue of accessibility in the actual campaigning for election. This act and the bill that amends the act is silent on that, and we had lengthy discussions at the select committee with respect to whether or not we should go down and move into that territory. The feeling was that the responsibility is one that is on individual political parties.

For example, Mr. Prue might say, "St. George is having an all-candidates meeting, but I'm not going to attend because it's not accessible." I just want to suggest to you that to have a body like Elections Ontario determine what kind of pamphlet and the form of the pamphlet of all political parties and the way in which candidates can and cannot campaign, whether they can go to an all-candidates' meeting at a place that is not accessible, really went beyond, number one, the four corners of the existing act and the mandate of the select committee, and frankly, in my view, is not something that should be governed by legislation but should be governed by standards that each political party imposes upon itself.

Ms. Tracy Odell: From Citizens with Disabilities' perspective, as long as the material is accessible and we would have access to it for whatever reason, that is the key thing. Candidates would need to keep in mind that if people can't read their materials or access their materials, they would not be able to get that person's vote, and that could be very critical in some elections.

Mr. Greg Sorbara: I guess my question is, should the burden there be on the political party or on—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to cut off the question and move on. Thank you very much, Ms. Odell, for coming down.

MR. MICHAEL DYTNYIAK

The Chair (Mr. Bas Balkissoon): I'll call the next deputant, who is Michael Dytyniak. I hope I pronounced your name correctly.

Mr. Michael Dytyniak: Close enough.

The Chair (Mr. Bas Balkissoon): Like everyone else, you have 15 minutes. Please state your name for Hansard, and if there's any time left at the end of your presentation we'll go to questions from all sides.

Mr. Michael Dytyniak: Hello. My name is Michael Dytyniak. I am currently a third-year law student at Osgoode Hall Law School. I am an individual with a disability who has made use of a wheelchair for most of my life. I've had the opportunity to be involved in activism in disability issues and also to do some individual research on issues surrounding accessibility of elections and elections campaigns.

To begin, first of all I'd like to thank the standing committee for providing me with this opportunity to appear before you today. I would like to begin by saying that I fully endorse the brief provided to this committee that was prepared by the Accessibility for Ontarians with Disabilities Act Alliance. It provides an extensive list of specific amendments to the current bill that I think address many important points. Also, I think that persons who have appeared before the standing committee today have addressed many of those points, particularly the need for a guarantee of accessible polling stations, which has been ably addressed by a number of people, so I will skip over that point.

I would just like to reiterate how important accessibility to polling stations is to persons with disabilities. Your rights as a citizen, I believe, begin and end with the ability to exercise your right to vote. If a disabled individual cannot vote independently and effectively if they wish to do so, then they lose even the ability to advocate for other needs and desires as a disabled citizen. So I think the importance of providing fully accessible polling stations cannot be overstated.

I would urge the members of the standing committee and, indeed, all members of government, to just take a moment and put yourself in the shoes of an individual with a disability. If you cannot access your polling station or you require assistance to access that polling station, or your dignity is injured by needing assistance to enter a polling station or having to leave your wheelchair or your walker to bum down a set of stairs—I cannot think of something that would be more disenfranchising, more insulting to a citizen than not being able to exercise their right to vote in an independent and dignified manner.

1420

There are a couple of specific points I'd like to address. First of all, on the issue of accessible all-candidates' meetings, I think this is very important and that the scope of the bill should be expanded to address the need for accessible all-candidates' meetings; that it should be the responsibility of government to ensure that accessible all-candidates' meetings are available in each riding. This

means that all parties involved in all-candidates' debates can work together to agree on standards, like providing materials in accessible formats, ensuring that accessible all-candidates' debates take place in accessible buildings, that sign language interpretation be provided, etc. These are standards that can be ensured by the government, and I think it's extremely problematic to assume that these sorts of issues will be voluntarily taken care of by individual parties. I just don't think that's going to happen, and that just provides too many opportunities for the issue to not be effectively addressed.

Secondly, the issue of accessible voting machines: The current version of the bill does not require that accessible voting machines be available at all polling stations. I think this is doable. This is not that hard to do and this is something that Bill 231 must do. Providing accessible voting machines is particularly important for voters with visual impairments as well as voters who are deaf or hard of hearing. This can be done. For example, in the American jurisdiction, the Help America Vote Act requires that each polling station provide at least one accessible voting machine.

Again, the general point: that these requirements to make elections accessible be enforced with appropriate enforcement mechanisms and a complaint mechanism, and that the accessibility of future elections in this province be monitored and improved on a continuing basis to improve accessibility.

Thank you very much for allowing me to speak. I'd be happy to take your questions.

The Chair (Mr. Bas Balkissoon): We do have time: about two and a half minutes each. We will start with the NDP, Mr. Prue?

Mr. Michael Prue: Yes. The American experience largely resulted after the fiasco of the hanging chads and the election of George Bush. That's when all of this happened, I understand. They are now pointed out to us as being an example of how well an election process can take place. Should we be studying them? Should we be sending people down to look at their processes?

Mr. Michael Dytyniak: There are certain standards in certain areas which are superior to the current legislation in Ontario, like requiring accessible voting machines at each polling station. I'm not suggesting that American voting legislation is better in all respects, but I certainly think that you need to take advantage of the opportunity to study what other jurisdictions are doing and implement best practices.

Mr. Michael Prue: Excellent.

The second one is about access at meetings. This is, as Mr. Sorbara pointed out in his question following mine, a rather difficult issue. Should candidates and should political parties be insisting that their candidates will only attend places that are fully accessible? Is this a way around it—just to have, I guess, the four major parties that field candidates in every riding insist that their candidate will not attend unless it is accessible?

Mr. Michael Dytyniak: I would encourage political parties to do that. I think it's laudable if candidates make

that sort of stand, but that, on its own, is not sufficient. After all, there's no guarantee that when the rubber hits the road, candidates will simply not appear at an all-candidates' meeting if it's not accessible. What if three candidates do decide to show up and one candidate doesn't? As a law student, let's be frank: If you don't guarantee something in legislation or in jurisprudence, there's always a chance that the need won't be effectively addressed. I think that parties can come together, can agree on standards for accessible all-candidates' meetings, and then guarantee that in legislation.

Mr. Michael Prue: Thank you.

The Chair (Mr. Bas Balkissoon): We'll move to the government side. Mr. Zimmer? No. Mr. Dickson?

Mr. Joe Dickson: I was going to ask a question. It was actually presented by the OFL/FTO when you were here. They had a very minimal time frame at the end, so there could be no question asked. They mentioned accessible polling stations, and they focused on the riding of Haliburton-Kawartha Lakes-Brock, which is the area where my cottage is, so I'm quite familiar with the entire area. I was looking for some type of input as a phase-in time. I was going to give you some of the historic problems that—I was just thinking of one community, whether it's Apsley, Chandos, Ormsby or whether you get up closer to Bancroft: There are a multitude of problems.

The new locations are accessible—wheelchair-accessible, whether it's the LCBO—they're building a new school: That's going to work fine, where the other one didn't. There are about four or five in all of those communities that I think can work extremely well. But if I have to go to the marina, it's seven steps up. Old buildings: If I go to my church in Ormsby, which is Our Lady—it's 19 steps up the side of a rock hill with old plumbing pipes that you can try and hold on to.

How do you deal with these situations, because they're so rampant in those very historic areas? I don't know how you deal with it.

Mr. Michael Dytyniak: I think what's important here is to say that the commitment to accessible polling stations is of paramount importance. There's a necessity to think creatively. I'm speaking off the cuff here, but if you can't find an accessible polling location in a building, then pitch a tent.

Mr. Joe Dickson: Okay.

Mr. Michael Dytyniak: This is so important that you have to think creatively. If there's a requirement in legislation that money be provided to communities to make at least one site accessible for future elections, then that's something that needs to be done.

Mr. Joe Dickson: In my 60-odd years, I never thought of a tent. Good point. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move on to the opposition. Mr. Chudleigh.

Mr. Ted Chudleigh: I'm going to follow up on Mr. Prue's line of questioning. In government, we tend to seek solutions internally as opposed to externally. I wonder if you had any experience with a shining city on a hill, another jurisdiction or another country that had

attacked or had looked at these problems and was doing an excellent job.

Mr. Michael Dytyniak: I gave certain legislation in the US as one example. There are some examples provided in the brief by the AODA that go into greater detail than I can today.

1430

You either want to go out and find best practices in another jurisdiction, benefit from their experiences—they've already travelled down that road; they've already had experience implementing that—or, if the Ontario government needs to lead the way in making elections more accessible, then lead the way. The disability community in Ontario—in Canada—is very engaged and is all too happy to provide suggestions, to brainstorm creatively. Tap that resource.

Mr. Ted Chudleigh: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to come down and present to us today.

Mr. Michael Dytyniak: Thank you.

MS. LORNA HILBORN

The Chair (Mr. Bas Balkissoon): Our next deputant is on the telephone, and it's Lorna Hilborn. Lorna, can you hear me?

Ms. Lorna Hilborn: I can. Hello?

The Chair (Mr. Bas Balkissoon): Hi, it's Bas Balkissoon, the Chair of the committee. You have 15 minutes for your presentation. I would ask you to state your name, before you start your presentation, for the record. If you leave any time at the end of your presentation, we will have questions from all parties equally. It's your turn.

Ms. Lorna Hilborn: Thank you. Good afternoon to all there, and greetings from Peterborough, Ontario. My name is Lorna Hilborn, and I am a disabled citizen of the province of Ontario.

I would like to start off by indicating that my disability is vision impairment. As a child, I had low vision; as an adult, for the last 40 years at least, I have had no vision at all.

I'm making this presentation on behalf of myself. It's not on behalf of any organization.

I don't want to forget, so I will start by mentioning the fact that I have great respect for an organization that emanates from Toronto and represents people with disabilities in Ontario in many respects, and that's the AODA Alliance. I know they are going to be making their own presentation tomorrow. I mention them here, right up front, because I have great respect for what they are doing.

I also agree with their brief and what they are presenting to you by way of information and suggestions as to how you can strengthen Bill 231.

Beyond that, I would like to indicate that my main reason for making this statement is that next month, I will be 75 years old. I have been a voter all of my adult life.

I've voted federally, provincially and municipally. I consider it a privilege and a right.

For most of those years, I have required assistance to cast my vote, in all aspects of Canadian voting. However, as of two municipal elections ago, I voted for the first time independently, here in Peterborough.

I have a guide dog, and have had for many years, so I know what it's like to have relative independence using a guide dog. I know how much legislation helped in that regard, removing barriers so that I can go most anywhere with my guide dog.

I very much appreciate the fact that you're going to try to remove barriers from the Ontario legislative standing committee, on your behalf. You're going to try to remove barriers, and prevent barriers in the future.

It has helped me in my voting in that I wore a headset and I had a device in my hand with a button on the top that I pressed as I followed the instructions that were given to me orally through my headset. So I voted for the first time and then again, for the second time.

This year, I understand that they've enhanced the system to the point where my vote will be printed off on the ballot as I'm pressing the button indicating who I want to cast my vote for. When the ballot is printed and is ready to be placed in the ballot box along with everyone else's, they take my name and enter that into the master list so that it's clear that I have already voted. When people are doing the tallying for the ballots, they will not be able to tell my ballot from anyone else's. I rather like that. I like the assurance that I haven't put the X in the wrong place where it might be discarded, which is part of my difficulty in voting in the Ontario division and in the federal elections. So that's why I still require assistance on those levels, but not any longer on the municipal level.

The primary reason for this is the leadership of our city clerk and returning officer. Nancy Wright-Laking has taken it upon herself to try to remove as many barriers as possible for our elections, and I am most appreciative of that.

The new system will also allow people with severe motor difficulties to have a foot pedal that they can press with one foot in order to cast their ballot.

There is also what is called a sip-and-puff system. I knew of this system when it came to disabled sailors being able to operate their own sailboats. Now, for the first time, I've learned that we're going to have it available here in Peterborough for this coming election. It's a new application of that particular system.

They are doing the very best they can in making all of the polling stations accessible by having the doorways wide enough to accommodate wheelchairs and scooters and having ramps in order to get to those doors, with sufficient turning space inside for both scooters and wheelchairs. The tables will be at the appropriate height for someone to pull right up to the table to cast their vote if they are in a wheelchair or a scooter.

The lighting will be more than adequate to assist people with vision difficulties, and will make it possible for them to cast their ballots. I have known people who

have gone into the polling station only to find that there wasn't enough light for them to mark their X.

I think that is most of what I have to say, and how much I appreciate what's being done here locally. I would very much like to encourage you to include the municipalities with your legislation so that not just Ontario elections will be accessible for people with disabilities, but municipal elections as well, throughout the whole of the province.

I would very much like to see you take leadership in this regard. You took leadership by bringing in legislation with the ODA in 2001 and the AODA in 2005. Now that you have put that into place, and as the standards and proper timelines are being developed, I would like to see you represent that legislation that you people were responsible for in the first place: I'd like to see you have that reflected in the revisions that you are making and in the implementation of Bill 231.

1440

I would like to thank you for listening to my presentation and encourage you to continue with legislation that will help people with disabilities. It is very much appreciated. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you, Lorna, and we'll have questions of the various parties.

First we'll go with the government side: Mr. Sorbara. No questions? None from the government side. The opposition? Ms. Jones.

Mr. David Zimmer: Just—

The Chair (Mr. Bas Balkissoon): Sorry. Mr. Zimmer.

Mr. David Zimmer: Just on behalf of the Liberal members on the panel, thank you very much for taking the time to carefully and thoughtfully think through your suggestions. We will incorporate them into our deliberations.

Ms. Lorna Hilborn: Thank you.

The Chair (Mr. Bas Balkissoon): We'll now move to the opposition side. Ms. Jones.

Ms. Sylvia Jones: Thank you, Ms. Hilborn. I had a question related to the new system that you've been able to use municipally in Peterborough. I'm not familiar with it. Was that available in every polling station or in certain polling stations in the city that they promoted?

Ms. Lorna Hilborn: The first year, it was available at city hall, and I tend to vote in the advance voting stage of the process, partly because it avoids the crowds, so to speak, for the regular voting. The second year, they had the voting in two locations, one of which was the advance polling, and it will be again this year. However, there's going to be the voting equipment available in one station within each one of the wards within Peterborough. So they are expanding it and trying to monitor the effect.

Ms. Sylvia Jones: So they're phasing it in and allowing people to go to different polling stations than what would be their home polling station in order to access that new technology?

Ms. Lorna Hilborn: That's correct.

Ms. Sylvia Jones: Thank you.

Ms. Lorna Hilborn: Very good.

The Chair (Mr. Bas Balkissoon): We will now move to the NDP.

Mr. Michael Prue: How do you let the municipal officials know that you require this special equipment in order to vote independently? Do you have to phone them up and say, "I'm coming," or is it just there? I especially want to know in terms of the polling stations that are not advance polls.

Ms. Lorna Hilborn: Well, they have differing methods of getting the information out to the citizens in Peterborough who have a disability. The information is on their accessible website, for one thing. It is also made known to the AAC, which is the accessibility advisory committee to the city of Peterborough, and we spread the word that way as well. We can always be assured of finding accessible voting at city hall, but we're a phone call away if we have vision problems to the extent that we can't maybe read the newspaper or flyers and that sort of thing. So they do try to get the word out as much as possible.

The Chair (Mr. Bas Balkissoon): Lorna, thank you very much for taking the time to join us today and for your input.

Ms. Lorna Hilborn: I appreciate the opportunity. Thank you so much.

CANADIAN PARAPLEGIC ASSOCIATION ONTARIO

The Chair (Mr. Bas Balkissoon): The next deputant is the Canadian Paraplegic Association Ontario: Lynda Staples. Like everyone else, you have 15 minutes. Please state your name for Hansard. If you leave any time at the end of your presentation, we'll allow questions from all sides.

Ms. Lynda Staples: Thank you very much. My name is Lynda Staples. I'm from the Canadian Paraplegic Association Ontario.

The Canadian Paraplegic Association appreciates the opportunity to speak to you today about Bill 231. Thank you for inviting us. We would like to address some challenges in the electoral process that the province of Ontario is facing and offer recommendations to constructively revise the proposed bill.

Since its inception in 1945, the Canadian Paraplegic Association has worked to assist people with spinal cord injuries and other physical disabilities to achieve independence, self-reliance and full community participation. From the moment of injury, it takes enormous energy, time and money to rebuild each person's day-to-day life and dreams. CPA Ontario currently delivers services through 16 regional offices. Our support network provides a number of core services for people with spinal cord injuries, including attendant services, rehabilitation counselling, peer support, information services, community advocacy and employment counselling, referral and training. We work to enhance relationships and forge new partnerships through our SCI network coordination. Community and systemic advocacy is critical, in the social content of our services, to guarantee full citizen-

ship in its entirety. CPA Ontario aspires to continue our partnership with the province of Ontario to provide vital core services to every Ontarian who sustains and lives with a spinal cord injury, so that people with disabilities can continue to be empowered to achieve full citizenship and lead productive lives.

As outlined in our submission in 2007, Ontarians with disabilities were promised an accessible election plan. It is expected that by 2025, Ontario will be a fully accessible province. CPA Ontario has been collaborating with other organizations serving people with disabilities and is a member of the AODA Alliance. I'd like to make it known that CPA Ontario supports the recommendations being presented by the AODA Alliance on March 31. We would like to recognize the consultations organized by Elections Ontario in May 2009, which allowed CPA Ontario to participate at the demonstrations of the voting machines.

In 2007, CPA Ontario actively contributed to organizing accessible all-candidates' meetings, offering a dialogue between Ontario citizens with disabilities and political candidates. More needs to be done to increase the civic involvement of Ontarians with disabilities, to address barriers to full inclusion in electoral activities and, ultimately, to also improve fundamental human rights for people with disabilities. CPA Ontario would like to acknowledge the Ontario government's plans to propose new legislation modernizing elections in Ontario and granting full accessibility to the electoral process. Bill 231 should ensure and strengthen fully accessible elections. This bill should effectively guarantee the removal of all existing and any potential barriers preventing voters as well as candidates from participating actively in provincial elections.

Bill 231 needs to categorically reinforce accessibility and create mechanisms to provide equal opportunities for people with disabilities throughout the entire electoral process, beginning with constituency, riding association, party and campaign offices to all-candidates' meetings; from polling stations to special ballots and voting machines. The process of monitoring, feedback and constructive evaluation is not addressed sufficiently in the bill and needs to be developed to enable full compliance with accessibility standards.

The bill does not deal with municipal elections, which face identical barriers as provincial elections. CPA Ontario would like to see Bill 231 become the impetus to disperse identical standards to the municipal electoral process.

CPAO endorses recommendations made by the AODA Alliance. Specifically, section 23 should be amended to reflect the ability to vote independently and privately, with no restrictions. The availability of voting machines should be promoted and publicized. CPAO would like this bill to be effective and meaningful and for the language used to reflect the commitment to update the existing act. Instead of indistinct references such as "may direct," CPA Ontario requests more precise wording such as "direct," "instruct," "ensure," "is in charge," "is responsible," and so on.

In section 25, criteria for home visits should be broadened and the right of appeal guaranteed if Elections Ontario refuses to provide the home visit. Special ballot kits need to be available. It is not clear how Elections Ontario means to manage home visits and whether there is enough staff to even accommodate all requests. It would be more reasonable to secure accessible polling stations to lower the demand for home visits.

1450

Section 32 should be amended so that research regarding accessibility is required as opposed to allowed. In addition, inclusive public access should be a minimal requirement, not merely the result of such a research. CPA Ontario was present at voting machine demonstrations that were used in the United States. Experience from other jurisdictions should be included in research options as an obligatory requirement, not an option.

Generally, full accessibility of polling stations and voting places must be ensured by providing alternate accessibility, should circumstances demand it. It should be an essential requirement that the space is sufficient for mobility devices to be used, including doorways, turning radius and height adjustment of flat surfaces that maybe need to be used. Locations must be accessible by public transit. Designated accessible parking spots must be visible and available.

The criteria for accessibility of polling stations should be applied to constituency, riding associations, party and campaign offices. It is in the best interests of the candidates to invite open dialogue with all citizens. Accessible and inclusive all-candidates' meetings should be enforced as minimum standards.

An accessibility hotline should be set up for voters and candidates with disabilities to provide feedback during the election process with respect to identification, removal and prevention of barriers. The feedback needs to be reviewed and evaluated, and next steps must be taken and made available for public review.

The bill should amend provincial legislation that governs municipal elections and necessitate the same standards vis-à-vis the municipal clerk's office and municipal elections.

The Ontario government should assign independent review of the effectiveness of Ontario legislation, including consultations with the public in general and with persons with disabilities in particular.

CPA Ontario is requesting the government of Ontario to prioritize Bill 231 to demonstrate the urgency of improvements in the Ontario electoral process.

Today, CPA Ontario is pleased to have had this opportunity to speak. Thank you again for your attention.

The Chair (Mr. Bas Balkissoon): Thank you. We'll go to questions. We have about two and a half minutes each. It would be the opposition party: Mr. Chudleigh or Ms. Jones?

Ms. Sylvia Jones: I just want to thank you for your presentation. I like how you've laid out the recommendations, particularly the last point, on page 3, where it has to be an ongoing process of continuing to review and

make sure we're headed in the right direction and doing the right things. Thank you for your presentation.

Ms. Lynda Staples: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: Back to the very thorny issue of the all-candidates' meetings: I struggle with this, and I know that this is a difficulty. Should political parties have this as part of their platform, that they will not attend if they're not accessible?

Ms. Lynda Staples: I've heard you ask this question three times now.

Mr. Michael Prue: I know; I know. I'm waiting for someone to assure me that there's a way to do it. I'll tell you, I would gladly say, "I'm not going to attend the all-candidates' meeting because it's not accessible," knowing full well that some of my opponents will show up and they'll have an empty seat for me and say, "Michael Prue won't come to our meeting." That's what they'll do.

Ms. Lynda Staples: Rather than saying that they will not attend, I would like to suggest that you open the door for all of them to have home visits. That would allow the person with the disability to still vote, but it will then prove a point that if nobody shows up at the voting station to vote, then there's obviously something wrong with the voting station that needs to be looked at. You're going to kill two birds with one stone. Then you're going to also show them that it's going to increase the mandate for staff requirements. At some point, they're going to have to sit back and look at how they're going to accommodate home visits for every election, whether it be municipal or provincial.

So rather than declining someone to vote because they can't go to the voting station, give them the alternative of the home visits and make them find the staff to accommodate the home visits.

Mr. Michael Prue: The previous speaker on the telephone talked about voting with a headset. I must admit, I have never heard of that.

Ms. Lynda Staples: There is, in research, mobile voting equipment for people with disabilities. One of our concerns is, if home visits will end up having to be the requirement because there aren't enough accessible voting stations, how are we going to have enough equipment? Again, it just puts the issue forward that it is an urgent and important issue that needs to be looked at. If we're going to be working with the AODA and the Ministry of Community Services for the building environment for 2025, then at some point we're going to have to pick up the snuff anyway.

The Chair (Mr. Bas Balkissoon): We'll move to the government side. Mr. Sorbara.

Mr. Greg Sorbara: Thank you to our final deputant, Lynda. It was well presented and I think well thought out. There are areas where, I'll put on the table, I disagree. We go back to the area that my friend, Mr. Prue, was talking about and what you do at all-candidates' meetings and whether or not the government should or even can regulate in that area. We have, for example,

some pretty firm rules about freedom of speech in elections and the ability for anyone to hold an all-candidate meeting. We went over this in the select committee as to whether we can enter at all into requiring political parties to do anything with a campaign office or with an all-candidates' meeting.

We as candidates know that it is so much more difficult for someone with mobility issues to be a candidate. Michael and I and the rest of us spend 25 or 28 days running up and down steps to get to doorsteps. I can only imagine how someone with mobility issues simply is precluded, and yet we thought that this was not the area to address those issues, but maybe they would be addressed in some other way.

The other thing is, you mentioned the Municipal Elections Act. That actually has been addressed, as you probably now know, through another bill which is also wending its way through the Legislature.

If there was one thing that you would like us to change here, what would it be?

Ms. Lynda Staples: Making the voting stations accessible. And if I may add, Mr. Sorbara, you mentioned that we can't necessarily expect the all-candidates' meetings to be fully accessible, but if we don't start somewhere and try and put some enforcement down so that it happens, it's not going to.

I use the very good example of: Who would have thought five years ago that we would have had a Lieutenant Governor with a disability? Mr. Onley is very much a person with a disability, and the government had to make changes to accommodate his position. We wouldn't have thought we'd have to do that five years ago, but we did do it.

Mr. Greg Sorbara: I absolutely agree with that—

Ms. Lynda Staples: So if we can make one step there to provide Mr. Onley with the accessibility that he needs to do his job, we can expect the candidates to be able to put forward the opportunity for us to be able to vote in a non-accessible voting station.

Mr. Greg Sorbara: I agree with you in terms of the voting station. The narrow issue is: The all-candidates' meeting that the local YMCA or the local B'nai Brith wants to hold and they decide to hold it in a building that's not accessible—I think the appropriate response is for each political candidate to question whether or not he or she is actually going to attend that all-candidates' meeting. That's an individual political judgment. I just don't think it can be addressed in legislation.

The Chair (Mr. Bas Balkissoon): Thank you very much for joining us today.

Ms. Lynda Staples: Thank you very much for having me.

The Chair (Mr. Bas Balkissoon): This meeting is now adjourned.

The committee will reconvene next Wednesday, March 31 at 12 o'clock to continue on with deputations.

The committee adjourned at 1458.

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Substitutions / Membres remplaçants

Mr. Ted Chudleigh (Halton PC)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. David Zimmer (Willowdale L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Larry Johnston, research officer,
Legislative Research Service

CONTENTS

Wednesday 24 March 2010

Election of Vice-Chair.....	M-1
Subcommittee report	M-1
Election Statute Law Amendment Act, 2010, Bill 231, Mr. Bentley / Loi de 2010 modifiant des lois en ce qui concerne les élections, projet de loi 231, M. Bentley.....	M-1
Elections Ontario.....	M-1
Mr. Greg Essensa	
Ontario Human Rights Commission	M-6
Ms. Barbara Hall	
Ms. Sue Morgan.....	M-7
Disability Awareness Consultants.....	M-9
Ms. Lauri Sue Robertson	
Dr. Richard Greco	M-12
Rev. Peter Hughes.....	M-14
Ontario Federation of Labour.....	M-17
Ms. Terry Downey	
Citizens with Disabilities–Ontario	M-19
Ms. Tracy Odell	
Mr. Michael Dytyniak.....	M-21
Ms. Lorna Hilborn.....	M-23
Canadian Paraplegic Association Ontario.....	M-24
Ms. Lynda Staples	



M-2

M-2

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 31 March 2010



Journal des débats (Hansard)

Mercredi 31 mars 2010

Standing Committee on the Legislative Assembly

Election Statute Law
Amendment Act, 2010

Comité permanent de l'Assemblée législative

Loi de 2010 modifiant des lois
en ce qui concerne les élections

Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 31 March 2010

Mercredi 31 mars 2010

*The committee met at 1201 in room 151.*ELECTION STATUTE LAW
AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES ÉLECTIONS

Consideration of Bill 231, An Act to amend the Election Act and the Election Finances Act / Projet de loi 231, Loi modifiant la Loi électorale et la Loi sur le financement des élections.

The Chair (Mr. Bas Balkissoon): I call the meeting to order of the Standing Committee on the Legislative Assembly. We're here to deal with Bill 231, An Act to amend the Election Act and the Election Finances Act.

ONTARIO PUBLIC SERVICE EMPLOYEES
UNION

The Chair (Mr. Bas Balkissoon): The first presenter today is the Ontario Public Service Employees Union, Greg Snider and Ellen Long. Please come forward. You have 15 minutes for your presentation. If there's any time left after your presentation, we'll allow questions from all sides equally. For the record, please state your name, and then you can carry on with your presentation.

Ms. Helen Riehl: Good afternoon, my name is Helen Riehl. I'm from the Ontario Public Service Employees Union, and I'm a member of their disability rights caucus.

Ms. Janet Heyman: My name is Janet Heyman. I'm also a member of OPSEU, from Kingston, and I also am a member of the disability caucus.

I'll start off. We've identified who we are and that we represent the disability rights caucus of the Ontario Public Service Employees Union; that's OPSEU in short.

OPSEU is a public sector union, and we have just over 133,000 members. The disability rights caucus, we do our best to identify barriers to full participation of persons with disabilities within OPSEU and the broader society. We are grateful for the intent of Bill 231. We are also happy that we were invited to speak to you here today.

First of all, we'd like to say that we fully support the briefs submitted by the Accessibility for Ontarians with Disabilities Act Alliance. Their brief goes into great detail about how to improve Bill 231.

Ms. Helen Riehl: The main point that we want to stress today is that, in general, Bill 231 does not ensure fully accessible elections. For example, the bill does not require that polling stations be fully accessible. It allows for that, but it does not require that they be. The bill does not provide for adequate monitoring or enforcement. The bill does not require that all-candidates' debates be accessible to persons with disability. The bill also does not address accessibility to municipal elections, which the province has jurisdiction over.

As a society, we already have a lot of knowledge on how to make events successful, and a lot of money and resources have been spent on doing that and doing that research. We don't need to reinvent the wheel. We just need to look at other countries and see what they've done to make elections accessible and build on that and take their best practices.

Ms. Janet Heyman: Being able to vote independently, to be able to run for an office, to read campaign literature and to attend all campaign meetings we believe is a fundamental right of citizenship, of personhood within a democracy. Inaccessible elections are not only a denial of democratic rights; inaccessible elections cause humiliation, social isolation and a loss of human dignity. At the present time, and the numbers are growing, 14.3 % of the Canadian population has some type of impairment or a disability. This percentage will definitely increase with our aging population, so let us work together to efficiently modernize and accessibilize our electoral system.

Ms. Helen Riehl: Today, we want to ask you to do it right the first time. We don't want electors to have to go to the human rights commission and say that they were denied the right to vote because the building that the polling station was in was inaccessible, or even that a candidate didn't have the right to fully participate in an election process because they were unable to get into a building where candidates' meetings are or something like that.

We also want to ensure that candidates who are running are required to have accessible campaign offices so that any citizen of Ontario can have access to a candidate's office if they should be required to go in there during an election.

There already was a challenge under the Canadian Human Rights Commission, and the federal law is now being changed to require this, so we're hoping that Ontario can get it right the first time and save the agony,

be leaders in this on a provincial level and not have to go to the commission to be ordered to do that.

We want to just take a few minutes to go through specific points that we believe are important for you to know.

Section 23 of the bill should be amended to require that by a designated date, no later than the scheduled 2015 Ontario elections, Elections Ontario will have available to voters with disabilities across Ontario accessible voting machines, which will enable voters with print disabilities such as vision loss or motor limitations to independently vote in privacy and to verify their choice. The way that it works now, a person who has vision difficulties would have to place a lot of trust in the person who is marking the ballot for them. They may say, "I want to vote for X candidate," but they have no way of verifying that that's actually where the X was made on their ballot.

Ms. Janet Heyman: For persons with disabilities, I myself and a lot of other people in Ontario believe that public feedback needs to be received from people for people such as us to be able to make elections more accessible. I look today—even grocery stores and local stores we shop in ask for everyone's feedback on how to make the process and how to make the stores a better place to be. Well, Elections Ontario, I think that's another place where they need to be at the forefront. If the building is not accessible, if I can't get in the doors, if I can't read the print because I may have vision issues, to me that's very demeaning and it just doesn't seem to work. We talk about a society in Canada where we work for everybody. Well, this process really doesn't work for everybody, so let's work together and let's see what we come up with that does truly help everyone within Ontario.

Ms. Helen Riehl: Another issue for us is in the area of home ballots. There needs to be an expeditious appeals procedure if somebody is denied the right to vote by a special home ballot. It does that citizen no good if they have to wait until after the election to have their ballot counted.

1210

Ms. Janet Heyman: The buildings that we presently use for elections, whether they're provincial or municipal, a good many of them are truly not accessible. When I walked in here today—I have a mobility challenge, so it was a challenge for me to get up those front stairs, but I could make it. What about people in wheelchairs or on crutches or using walkers? That's a huge impediment for them, and they might get frustrated and just walk away. We need their votes. We need everybody's vote in Ontario to count. Definitely, the stairs are an issue.

Parking lots; whether it's close to a bus stop; the special door openers for people: I think those things need to be looked at, and not just "they can if they choose to," but "they shall be law and they have to do that."

Ms. Helen Riehl: We also think that the bill should be amended to authorize Elections Ontario officials, including a returning officer, to designate a portion of pre-

existing parking spots or public roads for disability parking spots for the purposes of elections, as well as at the advance polling stations.

The bill should also be amended to prohibit anyone from doing anything that directly or indirectly leads to a polling station being placed or moved to an inaccessible location.

Ms. Janet Heyman: The AOD act: They're suggesting—and it does make a lot of sense—a checklist. When Elections Ontario is looking for polling stations, perhaps if they had a checklist, when they went and looked at the physical sites and went through the checklist, they could see where it might not work and then look for alternative locations. Again, after the elections, poll those people or ask for feedback, and review. If they worked but there are still some issues, perhaps for the next election they don't use that list. I think that a checklist—and maybe you have better terminology—is very important to use.

Ms. Helen Riehl: Again, we want to talk about the accessibility of ballots and the right of a person to mark their ballot independently.

I work in developmental services. I work in a group home with six adult individuals who have developmental disabilities. Some of them very much want to vote. I've gone with some of them on occasion, and I could very easily have told them to mark their ballot anywhere. There needs to be some sort of way to verify that that person wants to vote in the way they do.

If there are literacy problems, perhaps ballots could have the picture of the candidate on them, have the party colour on them, because that's what those clients knew. They said, "I want the one who has this colour of sign" or "I want this person who came to visit us at Special Olympics." They knew the face but they were not able to read. Having the ballots look differently so that people with different disabilities can independently mark their ballots or truly make an individual choice would be a much better way to go.

Ms. Janet Heyman: For myself, I have worked at the municipal elections, and I was the district returning officer. At that point, I didn't have a disability, but due to a work injury, I am now physically challenged.

For some of the issues that I see in this brief, perhaps the person who has that position—you're only there for, like, 12 hours. You do a little bit of training. This is a lot to expect of them. There needs to be a steering committee or something—I'm not sure of the correct term again—to look at all these issues and put some implementation so that, again, we have an accessible election where everyone who chooses to vote can get there, regardless of whether they're able-bodied or they have a disability. Thank you.

Ms. Helen Riehl: We would also like to see a requirement that commercials from the candidates be required to have closed captioning. Some candidates choose to have that, but there is nothing in the act that requires it. We feel that that's very important.

As well, all-candidates' meetings should be in a venue that is accessible to people with disabilities.

There needs to be, again, a very expeditious appeals procedure when these things are not in place.

There needs to be consultation with people who have disabilities so that—we did this in OPSEU. We've recently done an accessibility audit of all of our buildings. We thought that we were doing fairly well in making sure that all of our buildings were accessible, but when we actually did it, there were a number of things that were identified that made them inaccessible, so we're moving on making sure that it's all there. What we're going to do is have a checklist—this needs to be in place to make sure that it's accessible, this needs to be in place, this needs to be in place—so that we know, when we're leasing buildings or buying new buildings, that they will be accessible right away. I think something like that would be great for the people who are deciding where the buildings will be to ensure that they are accessible.

Like we said, we're grateful for being able to present here today. Janet is from the Kingston area; I'm from Timmins. I don't know how many people know where Timmins is, but it's pretty far from here. It's really disappointing that these committee hearings are only being held here in Timmins because—

Ms. Janet Heyman: Toronto.

Ms. Helen Riehl: Yeah, Toronto, right. There are different issues in different locations. I know when the next fixed election comes up; it's October 6. I know for sure that somewhere in the riding of Timmins—James Bay there's going to be snow. Snow is another issue that makes it very difficult for people with mobility issues to get around.

The final thing is in terms of having accessible transportation. Many of our smaller communities don't have Handi-Trans service, and that itself makes it difficult for people to get to an election.

In closing, thank you very much for allowing us to present. We hope to see some positive changes.

Ms. Janet Heyman: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much. I only have one minute left, so I'm not sure I can get questions, but any closing comments?

Ms. Sylvia Jones: Thank you for making the effort to come from Timmins to appear. We appreciate the submission.

Mr. Michael Prue: Thank you very much for what you had to say. You should know you were the first to talk about dedicated parking spaces and the first to talk about coloured ballots, so you've made a contribution.

Ms. Helen Riehl: Oh, thank you very much.

Mr. Greg Sorbara: Just if I might, Mr. Chair: Among the changes that we're hoping to bring about, we haven't found a way to ban snow in Timmins in October.

Ms. Helen Riehl: We were hoping you could do that.

Mr. Greg Sorbara: I'm thrilled that you came down from Timmins to make the presentation. We think that the legislation is going to move the yardsticks in the area of accessibility to the democratic process for people with disabilities. Your submissions are going to help us in that work.

Mr. David Zimmer: And also, my first visit to Timmins, I was reminded that—

The Chair (Mr. Bas Balkissoon): I'm sorry; I have to move on, Mr. Zimmer. Unfortunately, I've got a job to do here.

CANADIAN NATIONAL INSTITUTE FOR THE BLIND

The Chair (Mr. Bas Balkissoon): The next presentation is the CNIB, Christopher McLean. Please come forward. State your name for Hansard. You have 15 minutes like everyone else. If you leave any time at the end of your presentation, we'll allow questions equally on all sides.

Mr. Chris McLean: Certainly. Thank you very much. I want to thank the standing committee for this opportunity to present. My name is Chris McLean, and I'm here to represent the Canadian National Institute for the Blind.

CNIB provides services to blind and partially sighted Ontarians in communities throughout the province. All of our services promote independence, equality of opportunity and improved quality of life. We also conduct research and public education and perform advocacy in the field of vision health.

I will start our presentation with an endorsement. In CNIB's recommendations to the standing committee, we have focused on issues of priority interest to blind and partially sighted Ontarians. However, these recommendations are not exhaustive, and CNIB takes this opportunity to also endorse the full list of recommendations presented by the AODA Alliance.

CNIB's position paper has been circulated to the committee. Overall, insofar as Bill 231 promotes accessible election practices and opens up opportunities for persons with disabilities to participate in elections and vote with increased ease, the bill is commendable in its intention. However, the bill contains too many provisions that are only half measures towards ensuring the right to vote privately and independently. As such, the bill fails to take the necessary steps that will guarantee that Ontarians will have equal opportunity to participate in future provincial elections.

The government of Ontario must take this critical opportunity to legislate unequivocal measures respecting the role of the Chief Electoral Officer to safeguard accessible elections, and it must ensure that appropriate accessible technology is deployed during elections at all polling stations to facilitate voting.

1220

CNIB's most serious concerns pertain to the sections of the bill addressing accessible voting equipment. We submit to the legislative committee that Bill 231 be revised to remove any discretionary powers of the Chief Electoral Officer to direct that accessible equipment not be made available universally. There should be no question in this regard: Accessible voting equipment that

enables private and independent voting must always be present at every polling station.

Let me take a few minutes to walk through the key enablers for accessible voting for blind and partially sighted electors. To safeguard the citizenship rights, the following three principles must be satisfied:

Voting must be independent and private, such that an elector can read the ballot, complete the ballot and independently verify the ballot without the intervention of another person.

Second, voting technology must be grounded in universal design, accommodating the full spectrum of disability. For example, the Braille templates used during the last provincial elections were helpful to some voters—although they didn't allow independent verification—but blindness presents itself in many different ways and not everyone can use a Braille template; and of course blindness is only one of the disabilities that requires accommodation.

Third, polling stations must be barrier-free sites. For voters with vision loss, the emphasis here is mostly on the training received by polling station staff and volunteers.

These three measures would greatly enhance the participation of blind and partially sighted voters during elections: access to remote voting options that deploy web-based or telephone technology, campaign material that is available in alternative formats, and accessible equipment that is made available for the public to experience prior to the election day. If these measures are present, electors with vision loss will be more likely to use the equipment provided and will be more likely to vote.

I will take the remainder of my time to briefly walk through our eight specific recommendations to Bill 231, and the first two recommendations pertain to wording.

First, in the section pertaining to voting equipment, we recommend deleting the wording that the Chief Electoral Officer may direct the use of equipment. We submit that this legislation must specify that accessible voting equipment will be used at every polling station.

Second, we recommend deleting the related clause which states, "The equipment must not be part of or connected to an electronic network." This provision prohibits the use of current and future technology that enables remote voting options. CNIB believes that such technology has been tested and proved secure in other jurisdictions and that this technology is of clear benefit to blind and partially sighted electors.

CNIB also recommends the following six additions which expand Bill 231:

Bill 231, by and large, does not address the accessibility requirements for information distributed via Elections Ontario's website or other communications channels used by Elections Ontario. Bill 231 should include provisions that all information about provincial elections be available upon request in alternative formats and that web-based communications used for posting

information be compliant with internationally recognized standards for accessibility.

Next, the primacy of accessible voting should be clearer throughout Bill 231. Bill 231 must be explicit that the rights of electors with disabilities to vote independently and privately will prevail over any potential powers of the Chief Electoral Officer to modify the voting process. Our concern here is that the Chief Electoral Officer should not be empowered to forgo considerations of accessibility in order to achieve administrative efficiencies, cost containment or any other rationale.

A timeline and accountability are needed. Accessible voting equipment must be at Ontario polling stations for the 2011 provincial election. The government of Ontario and Elections Canada have been provided ample opportunity to learn how to make elections accessible. Time is now of the essence to ensure that action is taken before the next election, and it would be extremely unfortunate if accessible technology that is readily available and has been tested is not made available to the public, as was the case during recent Ontario by-elections.

Next, Elections Ontario must be mandated to promote to the public what accessible voting equipment is available and provide training to polling station employees and volunteers on how to use the equipment. It is not acceptable for electors to be denied access to equipment because polling station employees are unaware that the equipment is on site or how to use it.

In the section pertaining to voting by special ballots, persons with disabilities should be identified as a priority population that would benefit from the availability of remote voting. Special ballots should be specifically designed to accommodate persons with disabilities. It's true that many voters with disabilities will choose to vote at conventional polling stations, if they are accessible. However, it's also true that access to transportation is a considerable barrier to voting, particularly in remote or rural ridings. Special ballots that enable remote voting will address this problem if voters with disabilities are given priority access.

Our final recommendation: It is vitally important that the accessibility of the voting process be inclusive of the entire polling station, not just the ballot. Bill 231 must require that every Ontario polling station be universally accessible to all electors.

I thank you for this opportunity and I welcome questions from the committee.

The Chair (Mr. Bas Balkissoon): We have about two minutes each, so we'll start with the Conservative Party.

Ms. Sylvia Jones: Thank you. I guess I'm looking for your feedback. There were a number of presentations last week that talked about whether we could phase in the voting machines in particular, whether they started at the returning office—because we in Ontario have the most number of advance polls—so they are accessible every day, and whether that's something that the CNIB has discussed, has considered, and would they support it?

Mr. Chris MacLean: I don't believe there are jurisdictions in Ontario that lack a population of persons with

disabilities, so what would concern us about a phased-in approach—if that phased-in approach means having the equipment at some stations and not others—is that you're inevitably going to disenfranchise people who don't have access to this equipment. Our stance on that is universal availability of the equipment, which is vitally important to the citizenship rights of that population; that they be at every polling station.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Bas Balkissoon): We'll move to the NDP. Mr. Prue?

Mr. Michael Prue: There were some people who suggested—I'm not one of them—that this is a very expensive process. I did ask the researcher, Mr. Johnston, to give me some background information on the city of Peterborough and what they attempted to do. It cost the city about \$300,000. It did accommodate 10 people: That's the extent.

You are asking for these machines in every location. There are about 15,000 polling locations in Ontario during an election: That is a lot. Is there some way we can have one per riding and instruct people to go there? I know some ridings are way too big to do that. I'm just trying to figure out how this can be done in a way that is not cost-prohibitive, because it needs to be done.

Mr. Chris MacLean: My first response to the cost-prohibitive argument—I mean, we're conscious of cost, but I don't think that really has been tested properly, especially in Ontario. We know, just on the numbers for blind and partially sighted Canadians, that there are 370,000 people from the last StatsCan poll who self-identified as being blind and partially sighted: That's a lot of people. That's the population of Iceland.

If Elections Ontario makes people aware of the equipment, if they have the equipment available in advance so that they can take a look at it in the mall or a library or a community centre and they know how it works, that they know to ask for it, then you're going to get much more return on your investment. More people are going to use those options. We're also sure there are probably less expensive options out there and, once you open the market for innovation and create a market for the vendors, then the vendors will hopefully be able to produce cheaper machines.

1230

We certainly know that in the United States there are a lot of vendors who are getting into this area, but I would caution that I think it really needs to be tested properly to find out what the real numbers are and give people a real chance to use the machines before we get into the costing argument.

Mr. Michael Prue: In any event—

The Chair (Mr. Bas Balkissoon): Thank you very much. I've got to move to the government side.

Mr. Greg Sorbara: My question is along the lines of my friend Mr. Prue. Let me put it this way: In the work that we did in the select committee, we found that, currently, the voting machine of the type that Ontario is going to be using costs, with the training associated with

it, about \$15,000. As Mr. Prue said, there are about 15,000 locations—polling places—in the province of Ontario for a general election. If you do the math, that's \$225 million to supply all polling places with this kind of capacity. Does the CNIB realistically suggest to the government, which is looking at \$20 billion in red ink, that to assist the disability community its first priority should be to spend \$225 million on voting machines for the next election?

Mr. Chris McLean: I don't want to be drawn into a budget discussion—

Mr. Greg Sorbara: It's not a budget discussion; it's a priorities discussion. It costs money to—

Mr. Chris McLean: If it's a priority discussion, I can answer it that way because I can only answer for the priorities of our constituents, and not being disenfranchised is a priority for us.

Nobody is suggesting that the most expensive option has to be used and deployed. If there are cost savings in the system, certainly find those efficiencies, but it would be wrong of me to talk on behalf of blind and partially sighted Canadians to say that this is not important to them.

Mr. Greg Sorbara: I appreciate that, and it's important to us, but amidst that community, there are a variety of issues that the community looks to government for assistance on, and let's be fair, we're falling behind in a lot of those areas—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move on to the next deputant. Mr. Sorbara, thank you. Time has run out.

Thanks for taking the time.

Mr. Chris McLean: Thank you very much.

ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT ALLIANCE

The Chair (Mr. Bas Balkissoon): The next presenter is Accessibility for Ontarians with Disabilities Act Alliance: David Lepofsky, Orville Endicott and Courtney Keystone.

Welcome. You have 15 minutes for your presentation. Please state your name for the record, and if there's any time left at the end of your presentation, we'll allow questions from all sides.

Mr. David Lepofsky: Good morning. With me are Orville Endicott and Courtney Keystone. My name is David Lepofsky. I'm the chair of the Accessibility for Ontarians with Disabilities Act Alliance.

Eleven years ago, I and others convened a press conference here to call for accessible elections for voters with disabilities in Ontario, who number over one million. Eleven years later, we still don't have them; 11 years later, people with mobility disabilities continue to face the indignity of receiving a card from Elections Ontario saying their polling station is accessible but never knowing until they get there if it really will be. They face the indignity of possibly having to be carried down steps just to be able to vote or to have to find

someone to run into an inaccessible polling station to ask the scrutineers or the staff to stop letting everybody else vote so they can go outside and, perhaps, the person can vote in a car.

People like me who are blind still face the double indignity that we cannot mark our own ballot and verify that we marked it right. We have to rely instead on someone else to mark our ballot, hope they get it right, hope they don't spoil it and hope they don't tell anyone—compounded by the fact that we are asked to swear an oath that the government has created this barrier in our path just to get that accommodation.

The government promised us an accessible elections action plan, as did both opposition parties. The government and both opposition parties rose in unison five years ago to provide that this province would be fully accessible by 2025. Bill 231 will not fix those barriers to accessible elections now; it will not ensure accessible elections ever.

What will it do? At first, it provides that Elections Ontario can do research and hold conferences. Great. We don't need legislation for them to do research. They say they've been doing it for over seven years. And conferences—that's great. We won't be able to vote and they'll have conferences.

It says they may use accessible voting machines, but they don't have to. What is thrown at us is what Mr. Sorbara just said: It's going to cost tens of millions. It's going to cost hundreds of millions. Mr. Sorbara, that's because your legislation is drafted to lock the government into the most expensive option. It forbids the use of technology that the banks have used for years to enable people like me and people like you to do our banking securely, safely and in private from any telephone we pick up.

Telephone voting would be cheaper, easier, more appealing to everybody. It can be done with security, safety and privacy, and it would cost way less. But not only doesn't this bill require it, not only doesn't this bill permit it, it forbids it. Your section 23 includes a provision that forbids technology that is connected to a network for voting accessibly.

So this bill creates a legal barrier to the cheaper solution, and then what we hear is what we heard just a few minutes ago presented to CNIB. Blind people should be faced with the cruel choice of a very expensive option or forgoing their basic democratic rights. It's a cruel choice. It's not the choice we should be forced to face. It is not a choice that accessibility requires, but this bill locks us into that.

What this bill doesn't do is require polling stations to be accessible. What it doesn't do is put in place a system to make sure that happens—because once a person with a disability gets to a polling station and finds that they can't get in, they can't come back the day after the election and vote then. The election is over.

Now, what are the real guts of this bill? What did the Select Committee on Elections present us with and what has the government put before us? It's a very simple

message: Trust Elections Ontario. Let's let them have their research and conferences and so on, and let's hope they'll get it right.

The bill does one more thing, in fairness. It allows for mail-in ballots and home visits by Elections Ontario, but it doesn't require those mail-in ballots to be accessible. It doesn't require Elections Ontario to do the home visits; they've got a discretion whether they'll do it or not. No doubt, if hundreds of thousands of voters with disabilities insist on home visits because they won't know until election day whether they can get in the polling station, we'll be faced with an argument like we just heard a few minutes ago, "Oh, my God. That will cost thousands and thousands and millions of dollars. We can't have that."

The cheaper option is just making the polling stations accessible, but that's not required here in this legislation. Nor is there a measure to make it effective.

Now, if you want to talk about cost, in fairness you've got to talk about the cost of doing accessibility versus the cost of not doing accessibility. What is the taxpayer exposed to if this bill passes as is and if it's not fixed to make elections accessible?

I'm relying on the presentation you heard last week by the chief commissioner of the Ontario Human Rights Commission, Barbara Hall. What did she tell you? She told you that the Canadian Human Rights Tribunal ordered that one single voter who faced one single inaccessible federal polling station was awarded \$10,000 in damages. I invite you to take the numbers that Mr. Sorbara just added up—I'm picking on you just because we were classmates.

1240

Mr. Greg Sorbara: You were always smarter than me, David. Let's put that on the record.

Mr. David Lepofsky: I encourage you, therefore, to accept our advice.

Laughter.

Mr. David Lepofsky: Mr. Chair, may I ask that his heckles come out of my time?

But what does that mean? If every voter who faces one of these barriers invokes the rights that Barbara Hall talked about, what does that mean that the cost of inaccessibility will be to the taxpayer? Let's not solve this by litigation; let's solve it by strong and effective legislation.

Let's take a minute to look at the option that the Select Committee on Elections offered us and Bill 231 provides: Trust Elections Ontario. They're hard-working and they mean well. They've been telling us for a decade that they really treat this as a priority. But what's their track record? A week ago, the Chief Electoral Officer, Mr. Essensa, told you that they reported that 99% of the polls in Ontario in the 2007 election were accessible, but let's penetrate a little further. What he didn't tell you and what was in his own Elections Ontario accessibility report that he tabled with you is that they surveyed voters with disabilities and fully 44% reported difficulties voting, with polling locations and so on. What else did we learn? Mr. Essensa openly conceded that Elections Ontario has

got to do substantially better on accessibility. He acknowledged that the reports that his own returning officers submit aren't necessarily accurate. Those are his representations to you. What did we learn? We learned that in Toronto Centre, in the last by-election, they had an inaccessible poll because a principal decided that a volleyball game was more important than basic democratic rights for voters with disabilities. We suggest that "Trust Elections Ontario," no matter how hard-working and sincere they are, is not enough.

It's also not enough because you've got to look at what Mr. Essensa told you were the reasons why he thinks things will be okay now. He said, "We at Elections Ontario are still learning about accessibility." I ask members of the committee: How many of you think there is more to learn about the fact that people in wheelchairs can't go down stairs to vote? Is that a tough one? How about this: How much do we have to learn about the fact that if you can't get through the door, you can't get in? These are pretty basic things. It's not rocket science. But they say they're still learning.

With respect, they told us that the future is bright because they're going to do more consultations, but if you look at their 2007 report, they've been doing consultations with the disability community back to 2003 and before. We're delighted they consulted, we're delighted they want to consult, but we suggest, respectfully, that that's not the solution.

Finally, they say they want to do more research and develop better kits to give their staff. Again, in their own report, they have boasted about all the research they did before 2007 and the great kits they've given out. We've provided you documentation on this. For anybody watching this on TV, all of the documentation we placed before the committee is in accessible format on aodaalliance.org for them to see.

So what do you do about it? Let me summarize what we say you should do about it. You need to strengthen this bill to keep all your parties' election commitments for an accessible elections action plan. You need to extend it to apply to provincial and municipal elections, because both have the same barriers, the solutions are the same and you cut the cost by avoiding requiring two levels of government to reinvent the same wheel. We say that you need to require accessible polling stations, but also put in details, legislated standards of what that means, not just window-dressing statements—"All elections must be accessible"—but details. And there has to be enforcement and monitoring. Require Elections Ontario to post their proposed polling sites nine months or whatever in advance. Let us go out and check them out, make submissions, and if Elections Ontario doesn't fix their plans to ensure accessibility, give us an expeditious, cheap right of appeal. There are ways to fix this.

Provide for accessible voting machines. If you can't do it by this election, do it by 2015. Require that it has to be instituted, but more than that, take away Bill 231's current legislative barrier to ensuring that that kind of machinery is low-cost and the most widely available.

We have 23 recommendations and we don't have time to go through them all, but we respectfully suggest that it's important to make these provisions mandatory and put in timelines. We're quite open to the idea of two stages. Certain things will have to be accomplished by the 2011 election and other things deferred to, perhaps, 2015, to make sure they really happen.

Let me conclude with just a couple of observations. You folks bemoan the low voter turnout at elections. We're here for voters who want to vote but face barriers that are eminently preventable. You're wringing your hands over possible solutions. You want to solve the problem of snow? You want to provide for cheaper access to more accessible polling stations? Here's one for you: Why not require this fixed-date election to be at the end of June? The snow will have melted—in most places—and if you've got a problem with indoor accessible locations, pitch a tent in the parking lot in front of the inaccessible church or school and let people vote outside. It's the end of June: It won't be such a big deal. This is not rocket science. It is not hundreds and hundreds of millions of dollars. It is not a question of challenging a deficit that should be wisely spent elsewhere. It's a matter of doing what the Americans have been figuring out and what we should be figuring out.

We respectfully request that you amend this bill, that you strengthen this bill and that you ensure that provincial and municipal elections are fully accessible to voters and candidates with disabilities, not only on voting day but throughout the campaign process. Thank you very much for this opportunity to present.

The Chair (Mr. Bas Balkissoon): Thank you, David, and thank you for coming. There's no time left, so we'll move to the next deputant.

MS. PENNY LECLAIR

The Chair (Mr. Bas Balkissoon): The next person is coming to us via teleconference. Hello? Penny Leclair? This is Bas Balkissoon, the Chair of the committee. You're in front of the committee, and we're here to listen to you. You have 15 minutes for your presentation. If there's any time left at the end of your presentation, I will allow questions from all three parties. You can now go ahead.

Ms. Penny Leclair (Interpretation): Thank you very much. This is Penny Leclair speaking. I'm in the province of Ontario in the city of Ottawa. I'm a person with a disability. I am deaf-blind. My comments on Bill 231 are provided with the experience of having participated at one—and I repeat, one—all-candidates' meeting during our last election. This was the first meeting in my life that I was able to participate in at the late 50s of my life. I didn't realize what I'd missed until I did participate at this meeting.

So my comments are made from having had that experience. I knew what it was like to acquire information at a candidates' meeting, so that when I cast my vote at our last election, I felt I had made a vote far more com-

passionate for the democratic process. I relied on what I learned at the all-candidates' meeting, and not by what others told me they heard. I felt I had made an informed and objective decision regarding whom I voted for.

When plans are made to modernize a process, particularly the provincial election process, the opportunities for accessing all information should include all citizens. As I do not see and I do not hear, I don't have many equal access opportunities to receive information during election time.

1250

When I consider all the ways others have to access information to allow them to cast an informed vote, I feel our province should be able to strengthen this bill to equalize the field of access to information that is provided at election time. Candidates' websites are not accessible. Their information is in print only, so the meetings are important. Emphasis needs to be given to the very real situation of disabled candidates running. This means that they too must have equal access to information and fully accessible facilities during election time.

Bill 231 does not ensure fully accessible elections in the future. Accessible voting is a right, and access to information to cast an informed vote is also a right. Therefore, Bill 231 must be changed to ensure that it is a reality that access is given to all people who are eligible to vote in Ontario.

During this presentation, I wish to make general statements which I know members of Parliament do not require me to give great detail on during my presentation. It is my hope that my comments will prove to demonstrate how important it is that people with disabilities have better access to acquiring information at election time, and that when I exercise my right to a private vote, I can do so with 100% confidence in having voted correctly.

At this point, I want to say that I support the content and ideas that the AODA Alliance made in the March 31, 2010, presentation on Bill 231. This bill must be amended to be strengthened. If left as is, it does not fulfill the promise the Premier made to citizens of Ontario.

Priority to the ballot is the main key. All people should be able to fill out a ballot, so that using the phone to cast an informed vote would be easy, affordable and could be made secure.

Polling stations must also be accessible and the ballot must allow for voting independently without the likelihood of making a mistake that can't be verified.

All-candidates' debates must be accessible, and document how this is done so that every citizen can participate equally. Whether the Canadian is running or voting, the total process must be fully accessible. This is a learning experience since it hasn't been accomplished many times in Canadian history. Document, document, document, so that everyone knows how to include all citizens. Often, I'm being told that something didn't happen because people weren't aware, so it's obvious that more documentation needs to be done.

Monitor this bill and ensure all the requirements of Bill 231 so that there is full compliance with accessibility requirements.

I have valued the opportunity to participate at this public hearing. Thank you for your attention at this time. Go ahead.

The Chair (Mr. Bas Balkissoon): Thank you very much, Penny. We will now have questions, about a minute and a half from each party. We will start with the NDP; Mr. Prue. And I would ask you at the end of your question to just say, "Please go ahead" because she's on Bell Relay.

Mr. Michael Prue: Okay. Ms. Leclair, thank you for your deputation. Can you tell me what device or assistance you had at the all-candidates' meeting and who arranged for it? Please go ahead.

Ms. Penny Leclair (Interpretation): When I went to this meeting, I had the assistance of a special interpreter who is someone who uses tactile information of signing done on my hands because I do not see, and so it's called a professional intervener. The organization that did the primary provision of services was the Canadian Hearing Society, but they worked with other organizations, because in order for this to be fully accessible, we had people who were attendants for those who required help to and from washrooms—there were so many things in the background. I was just one of many forms of disability. The organizations worked together.

I'd also like to say for the record, in my example, in my presentation I was reading Braille. It took me longer to say what I had to say, and it's unfortunate that no one allows for extra time when somebody is working with a disability on something like this, but I certainly appreciate the opportunity and that this committee worked over the telephone, and Bell Relay Service. Thank you. Go ahead.

The Chair (Mr. Bas Balkissoon): We will now move to the government. Mr. Sorbara.

Mr. Greg Sorbara: Just one quick question, Penny. You said in your presentation that using the phone to cast an informed vote would be easy. Could I ask you, do you use secure phone systems for any transactions in your life now that would be a model, say, by way of banking or a secure computer—facilities that you use in order for you to conduct your business notwithstanding your disabilities? Please go ahead.

Ms. Penny Leclair (Interpretation): Yes, through Bell Relay Service, which is a professional service, so it would be the same as an interpreter. You value that professional service and you consider that when you're using it, you are actually doing a private-type thing. I can do banking with Bell Relay. I can do anything you can do; it just takes me longer. So the same process by which I am communicating with you right now is used to do everything and anything that anyone could do on the phone.

That's a short way for me to answer that question. I hope it's adequate.

1300

The Chair (Mr. Bas Balkissoon): Thank you, Penny. We will move on to the Conservatives. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. What is the easiest way for you to vote? I'm assuming that it's by telephone and that that is made impossible through this bill by section 23 of the bill. Is that correct? Please go ahead.

Ms. Penny Leclair (Interpretation): That's correct. Right now, that wouldn't be a possibility, and there are lots of reasons why. Security-wise, it would have to be done in such a way that voting—well, I guess just the person is who they say they are and things like that. But voting by phone alleviates one from having to get there, which can in itself be a problem, and voting independently is just easy because voting from your own home and voting over the phone is an independent way of doing things. I don't have to wonder who's going to come to my door.

If Elections Canada allowed such a thing, first of all, the person can't communicate with me so we'd have to hire an intervener. The phone just takes that away. Bell Relay is easy. You just make the call. They're already there ready, willing and able to help at any time with any process. So it could be accessible. And the reasons why having someone come to the door isn't—a lot of us have fears of opening a door to people, so to put one more person at our door to allow us to vote, which is something that's being considered right now, for me isn't a safe option. It isn't an option at all, as far as I'm concerned. Thanks.

The Chair (Mr. Bas Balkissoon): Penny, thank you very much for taking the time to present to us today.

MS. CATHY CROWE

The Chair (Mr. Bas Balkissoon): We will now move to the next presenter: Cathy Crowe, street nurse. You have 15 minutes. Please state your name for the record. If there's any time left, we will allow questions equally from all sides.

Ms. Cathy Crowe: Thank you. Good afternoon. My name is Cathy Crowe. I was the NDP candidate in the February 4 Toronto Centre by-election. I want to make four points today. I do have a PowerPoint presentation of some images that accompany some printed images I've presented as evidence to the committee.

First of all, as you know, a by-election can be called and take place in 28 days. In my case, my election period was 24 days. I just want to suggest that that, in and of itself, for a candidate of any party presents a major challenge to the democratic process.

Second, I learned a lot about accessibility issues—more than I had learned as a nurse—during the by-election. I want to say that I have read and reviewed and fully support the content and recommendations in the brief of the AODA Alliance.

My third point: Polling stations are not fully accessible. I have to tell you, that did shock me on Election

Day. I visited 15 polling stations. At the first one, I witnessed a person being carried upstairs in a wheelchair by, I assume, friends or family and an Elections Ontario official. That was at St. Simon's on Bloor Street East. However, five of the 15 polling stations I visited that day posed serious barriers. So I returned and seven days later took images.

The fourth point I want to make is, there are clear disparities in voting rights and access. In 2003, Elections Ontario introduced polling stations in complexes that have more than 100 units. Generally, they were held in the lobby. What happened? In the 2010 by-election, there were some buildings—they were actually three condos on Bay Street—that each had between 200 and 400 voters and which had a polling station in their lobby. But on the other hand, in St. James Town, with over 9,000 voters, there were only three polling stations. To make matters worse, all three are images that I'm going to show you today and that had true barriers to access. As a nurse, I just want to suggest to you that should we have been trying to immunize with H1N1 vaccine or flu vaccine 9,000 people in one day in three locations, it would have been physically impossible. So I don't know how Elections Ontario can expect that many people to vote.

There are five sets of photos that I've presented to the committee. I'm going to go through the images. They're numbered to match the PowerPoint CD that I'm going to show you. The first site I'm going to show is St. Joseph's College School. This is the location where the Toronto Sun reported that a man was unable to access the polling station in the basement. I should point out as well that this is a girls' school. I did find it surprising that schools are being used in this day and age so much as polling stations, given that most public schools now are either locked during the day or they're, in this case, a girls' school. The vice-principal, when I returned, actually expressed concern about that. So I found that to be something interesting that I think Elections Ontario and the school board should be looking at.

This is the front entrance from Wellesley Street. You can see that there are actually two sets of stairs going into the school, with glass doors that present a barrier. Can everybody see? Yes, I guess you can see.

Mr. Michael Prue: It's over there.

Ms. Cathy Crowe: Okay. I can't swear to it, but I don't recall that there were automatic door openers. Inside, this is what a voter faced immediately: right in the main lobby, a steep set of stairs that go to the basement polling station that was in a gymnasium. The gymnasium itself was certainly over 80 degrees that day. Inside, scrutineers complained to me bitterly about the discomfort of working in that location that day. I know that that was a sudden change in location for that school, but it's still unacceptable.

I was advised that, yes, there was an accessible entrance to the school, through the exterior, through a parking lot. I actually couldn't find it. This is the east side of the school. At night, it certainly would have been darker than this. Certainly, there's a pathway there that suggests

an entrance to the rear. There's a parking lot. I actually could not find the elevator to the basement.

I want to point out that there was no signage to this effect anywhere. There were no polling station staff outside as well to identify to anybody presenting with any kind of physical or other disability that this was an option for them.

The second location is St. Martin school. This is in Cabbagetown, on 55 Salisbury. There are two sets of exterior steps to this school. This is what appeared to me to be the main entrance of the school. It's where the signage of the school is, although it's not actually on Salisbury.

This is the other set of stairs to the school. You can see that adjacent to this exterior second set of stairs, there is what appears to be a ramp. However, I think it's pretty visible here that the ramp is somewhat irregular, to say the least, with almost what you would call potholes in it, and certainly of an elevation that, without a pole beside it, would make it extremely difficult to navigate.

This is the north entrance to St. Martin school. The security guard in the school and DRO staff advised me that there is an accessible entrance to the north of the school. They couldn't actually show me how to find it. It was only a week later on returning to the school that we scouted around and found this location. Again, there was no signage to any effect on election day that there was an accessible entrance to the school.

This other shot of the exterior of the north side of St. Martin school, again, just suggests that—there's a sidewalk, there's a small laneway or walkway adjacent to the brick of the school, but certainly there's no signage at all to suggest, even on a regular day, that that's the accessible entrance.

Now I want to turn to St. James Town. You know that St. James Town is one of the most multicultural, dense communities in Canada, with many new immigrants, many non-English speakers, many seniors and many, many people with various types of disabilities. There are 18 high-rises in St. James Town and approximately 9,000 voters. Again, I just want to point out the discrepancy. I was extremely shocked to learn that there were only three polling sites in all of St. James Town for close to 9,000 voters. They were polls 424 to 441. It's a lot of polls. Again, on Bay Street we documented that there was one poll for 200 electors in poll 482 etc. A total of 9,000 voters—three polls.

1310

I'm going to show you the entire three polls in St. James Town. The first is actually a beautiful facility, it's the Wellesley Community Centre, a fairly new facility that is at the corner of Sherbourne and Wellesley. However, immediately in the lobby what you see is a set of stairs that goes up to the gymnasium, which is commonly used in federal, provincial and municipal elections as a polling station for many polls. Again, on that day, I spent an hour on election day in that lobby and outside. I also encountered a colleague of mine in a wheelchair who came to vote. There was, again, no signage to point out

the accessible entrance to this gym, nor were there staff exterior to try to identify and help people.

This picture shows the east side of the gym. This is where you would go down this long hall through a set of doors to be able to access the rear entrance of the gym. It's quite a walk, especially if it was a frail, elderly person or somebody with CP or MS, who was trying to also make their way down that long hall to the rear entrance of the gym to vote.

The second polling station in St. James Town is Rose Avenue Junior Public School at 675 Ontario Street. This is the obvious main entrance to the school, and there was prominent Elections Ontario signage on that door, but for myself, entering St. James Town from the south, I actually had to go up the stairs to read the markings on the sign saying, "This is not where you come to vote; you go thataway to the north entrance of the school." So then I went there. This is what can be described as a downward laneway or ramp that brings you to the north side entrance of Rose Avenue school. There are cars parked in it, and there were cars parked in it that day as well. I can't tell you the gradient, but certainly if there had been ice it would be tricky. I can't remember if there was or not. This is the view from the bottom level of the ramp to the main, primary entrance of the Rose Avenue school voting location for, I would assume, approximately 3,000 people.

At the entrance to the school—and on this day the school was locked so I couldn't get an interior picture, so that's a view through the exterior doors. What you see is a lot of clutter, I want to suggest. There is something there for moving furniture; there are chairs; and there are hula hoops. I want to point out that on the day that I physically visited and went inside the gym, the hula hoops had fallen and they were actually blocking the blue doors, one of which was open that day. I did ask the DRO staff to clear that, and they did, and that's fine. But it just suggests clutter. Hospital wards are like that too. That's not where you want a large group of people to be coming through to be able to vote.

The final St. James Town poll I want to show you is a wonderful church called St. Simon-the-Apostle. It's on Bloor Street just east of Sherbourne. The accessible entrance to this church is only on Bloor Street, and it's clearly marked. You can see the blue and white wheelchair sign there, and you can see that there's an entrance to the ramp. The trouble with this is that you can only access that point of entry by coming from the sidewalk on Bloor Street or by Wheel-Trans or vehicle. It's not accessible from all of St. James Town that comes from the south.

This is the east view of that ramp. You can see that if you were coming from the right side, which is Bloor Street, you could wheel up the ramp. It looks to me—I'm not an expert—like a decent, fully accessible ramp. But if you're coming from St. James Town in the south, where all the voters were coming from, and if you come up the side of the church, this is what you face. You face these

stairs, and this is where I saw a person in a wheelchair being lifted up that day.

I imagine this to be an accessible south entrance to the church, except that there's the issue of the curb all along Howard Street, which would prevent anybody in a motorized scooter in particular from accessing that entranceway. It did have an Elections Ontario yellow banner on it that day. I didn't actually check inside to see if it was accessible.

That's the end of the pictures. I just want to point out to you that I started out my day on election day with a different purpose. Obviously my campaign manager was trying to keep me out of the office that day from bothering her, so I just went around. It was at this site where I first saw somebody being carried in to vote. So then I looked at other polling stations in a different light. I think the fact that at five out of 15 I documented these issues is quite significant.

I also received, as you can imagine, many calls and emails from other people who faced problems. They also have, I'm sure, linked with the AODA group.

That's my submission. I hope the photos are helpful. I just urge you to really take the recommendations of the AODA very seriously. People's basic right is that to vote. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much. There isn't much time left for questions. Thanks for taking the time to present to us today.

ARCH DISABILITY LAW CENTRE

The Chair (Mr. Bas Balkissoon): I will move to the next deputant: ARCH Disability Law Centre, Ivana Petricone. You have 15 minutes. Please state your name for the record. If there's any time left, we will have questions from all sides.

Ms. Ivana Petricone: My name is Ivana Petricone. I'm the executive director of the ARCH Disability Law Centre. Thank you for having me here today.

ARCH Disability Law Centre is one of the community legal clinics in the province. We are a specialty clinic dedicated to defending the rights of people with disabilities.

I wanted to say to you that I am a street lawyer in the same way that Cathy is a street nurse. Our profession hasn't kept pace quite with the nursing profession, so I can't really say that, but I feel that my job is a street lawyer.

I'm going to talk to you today a little bit about the importance of the right to vote from a legal perspective. I'm going to talk to you about what we mean by "fully accessible elections." I'm going to highlight some of the cases that ARCH has been involved in in which people with disabilities have faced barriers to voting, and I'm going to make eight recommendations for improving Bill 231.

The right to vote in Canada is fundamental to all of us. It has been described as a cherished right. It is the fullest expression of our citizenship. For people with disabilities,

it is also the fullest expression of their citizenship. People with disabilities in Canada and Ontario have struggled for decades to achieve full inclusion in our society, to overcome the barriers that they face in their everyday lives. A barrier to this fundamental right, a barrier to being able to vote, is something that causes extreme damage to people with disabilities.

Your government has a legal duty to make elections fully accessible to all people with disabilities. The duty comes from the charter, from the Ontario Human Rights Code and also from the Accessibility for Ontarians with Disabilities Act.

I would say to you that truly accessible elections must be completely barrier-free. They can't be that people have access through the back door. People can't be made to feel that their presence at this extremely important event was unexpected or, at worst, unwelcome. It has to be full access without barriers.

What people with disabilities have told us at ARCH is that when they face these barriers, they either buck up and try and go back, facing the barriers, knowing what they're going to face, taking someone with them to help them, or they stay home. The barriers suppress voting in this population, and they probably suppress it in others, like people for whom English is not their first language who are voting for the first time. But for sure I can tell you that it suppresses voting for people with disabilities.

1320

Scholars in disability rights and accessibility experts have stated that impeding voting also impedes equality in other areas, such as employment and education. That equality can't be achieved unless people have the power to vote and are able to vote.

I would like to underscore that full participation in this process is not just attending the polling station and dropping your ballot in the ballot box. It includes nomination meetings. It includes riding association activities. It includes political party conventions and all-candidates' meetings. Currently, people with disabilities are unable to engage in many of these activities due to barriers.

Bill 231 gives us an important opportunity to fix this to ensure fully accessible elections for people with disabilities. I'd just like to talk a little bit about what that means and tell you that ARCH supports the goals that were set out in the AODA Alliance's brief and endorses that brief.

To summarize, that means that people with disabilities must be able to vote independently. They have to be able to mark their ballot in private, as people who don't have disabilities can do, and they must be able to verify their selection to ensure that they voted for the person they want to vote for.

People with disabilities need full and equal access to information about where to vote, when to vote and on the choice of candidates. They have to have barrier-free polling stations and they have to have alternative means of voting when access to polling stations is not possible. The entire process needs to be barrier-free and accessible. So you can't just be able to get into the building; you

have to be able to move around tables and get to where you need to get in order to vote.

Public information from candidates needs to be accessible so that people can make informed choices about who they vote for, and people with disabilities must be able to fully participate in all-candidates' meetings.

Finally, I'd just like to mention that it's important that people with disabilities be able to fully participate in elections as candidates without any restrictions on the funds that can be spent for their accommodation.

I'd like to talk to you a little bit about some cases that ARCH has been involved in. These are two cases that dealt with access to federal elections but I raise them here to underscore the importance of strong legislation in this area. The federal legislation states that people need to have level access to polling stations. It's right in the Canada Elections Act. Recently, I had the privilege of representing the Council of Canadians with Disabilities before the Canadian Human Rights Tribunal in the case of Hughes.

The Hughes case was outlined in the AODA Alliance's brief so I won't go over all of the details. But suffice it to say that this dealt with accessibility to a polling station a stone's throw away from here, at St. Basil's Church, where Reverend Hughes attended to vote in two elections. One was a by-election in March 2008; the other was the general election in October 2008. When he attended in March, he had to go down the stairs on the seat of his pants, and the accessible entrance was a freight entrance at the back of the church, all of this notwithstanding that there's a ramp at St. Basil's that you can go up, but that door to the church was locked on both of those election dates.

This happened twice in six months. In the interim, Reverend Hughes made a complaint to Elections Canada and also complained to the Canadian Human Rights Commission, and notwithstanding both of these complaints, there was not a change in the accessibility or in the choice of that polling location.

This case had eerie similarities to a case that happened during the 1984 federal election, and that was the Canadian Paraplegic Association case, which dealt with access to polling stations in Winnipeg. They took their complaint to the Canadian Human Rights Tribunal, and the Canadian Human Rights Tribunal made a decision and set some systemic remedies. Notwithstanding that, 24 years after that election, we had a very similar problem in a person gaining accessibility.

Notwithstanding all of the improvements that have been made to accessibility and this lovely ramp outside of St. Basil's, it was very disconcerting to us that following this case, following a lengthy presentation with respect to systemic remedies before the Canadian Human Rights Tribunal, virtually the same problems occurred this time at St. Joseph's.

Let me also tell you that I am a graduate of St. Joseph's College School, and I was distressed to see how unchanged that building is since I went there about 40 years ago. I can tell you that there is an elevator that,

when I was there, was restricted exclusively for the nuns who lived then on the top floor.

This is 2010 and people are still having difficulties accessing polling stations. I tell you about these cases in order to urge you to make this legislation stronger, to ensure that it provides for accessible elections and to prevent the recurrence of these experiences, which have been so humiliating for the people who have had to encounter them.

I'd just like to speak briefly about some recommendations that ARCH thinks would help to improve this bill and strengthen it. The first deals with section 44.1 of Bill 231, which allows the chief elections officer to direct the use of accessible voting equipment. Of course, people with a disability are happy to see that this kind of voting equipment is named in the bill. However, it simply permits the chief elections officer to direct. We urge you to change that to mandating the accessible voting equipment. The legislation should itself direct the chief elections officer to use this voting equipment.

In addition, the legislation must set out a reasonable time frame by which the voting equipment must be placed in each electoral district. We have clients at ARCH who tell me that they will never see an ability to vote in this way—marking a ballot privately and verifying the ballot—because they've been fighting for so many years for this, and they're worried that they won't see this in their time.

ARCH supports a special ballot procedure for electors with disabilities, as is set out in Bill 231. However, I would point out that it is overly complicated. It also erects some barriers. There's a requirement that the person be able to write, to sign and to mail in the special ballot.

The bill talks about testing equipment. I would suggest that all of that testing must be completed before an advance poll opens. Many people with disabilities vote at advance polls because it's a little bit easier to access them, so testing should be done before the advance polls begin.

There must be extensive training with respect to accessibility, and that training should be from the top—from the Chief Electoral Officer—down to all of the staff and volunteers who execute the election.

1330

It's also essential, in ARCH's view, that the Chief Electoral Officer continually study methods of improving the voting process as is provided for in this bill. However, it's difficult to understand why this section would be repealed in December 2015, especially considering the advances and changes in technologies that are made with respect to methods of voting.

We urge you to insert in the legislation a requirement that the Chief Electoral Officer continue consultation with electors with disabilities and disabilities groups in order to eliminate barriers in voting.

The Chair (Mr. Bas Balkissoon): You have about a minute left.

Ms. Ivana Petricone: All right. My last two recommendations are that the Chief Electoral Officer be responsible for verifying the accessibility of polling stations, and lastly, that there be a procedure for receiving, recording and processing complaints with respect to accessibility to polling stations.

Those are my comments. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to present to us today.

ONTARIO MARCH OF DIMES

The Chair (Mr. Bas Balkissoon): We'll move to the next presenter, Ontario March of Dimes: Steven Christianson, Janet Macmaster and Tina Marano. You have 15 minutes. Please state your name for the record. If you leave any time at the end of your presentation, there will be questions from all parties.

Ms. Janet Macmaster: Good afternoon, honourable members and Mr. Chair. Thank you for this opportunity. My name is Janet Macmaster, and I'm with the government relations office at March of Dimes. With me today is consumer advocate Tina Marano and our manager of government relations, Steven Christianson.

When considering how to improve the electoral processes and systems, we bring our focus down to a fairly sensible point with which we think anyone would agree: Whatever system is in place, however voters mark that X for their chosen candidate, that process should never be a hassle. When the process is a hassle we increase the likelihood of lowering our voter turnout and civic participation, and put into question the efficacy of our system of responsible government.

We've seen numerous changes over the years to our electoral rules and processes that help make voting relatively hassle-free—for able-bodied voters, that is. So why can't we seem to get it right for Ontarians with disabilities, and put into practice and recognize that every vote and every voter truly do count?

To say that much work is needed simply doesn't cut it. We're not getting it right. Not all polling stations are accessible, and they should be. Information and communications are not accessible, and they should be. Election campaign offices all too frequently are thoroughly inaccessible, which basically tells a volunteer with a disability, "We don't need your contribution. Your participation simply is not valued."

I'd like to share a few thoughts with you from one of our board members at March of Dimes, Elizabeth Lounsbury. She resides in the Nickel Belt area and uses a motorized wheelchair. According to Elizabeth, she is no stranger to barriers when it comes to voting. Polling stations are in locations that are physically inaccessible, time and again, most recently in a motel room with a step. In one recent election, Elizabeth's husband had to vote for her due to the barriers in the polling station. In Elizabeth's words, "That is just plain wrong. It's supposed to be a secret ballot, and frankly, how I vote is my business and nobody else's. It is true ignorance on the

part of those who plan this process in that they don't appear to even think about people with disabilities, choosing locations and considering accessibility."

The larger electoral process, and not just voting day, must also be accessible. For example, as Elizabeth has asked me to convey to you, "It's been a thorn in my flesh that I have not been able to attend an all-candidates' meeting because none have been accessible. Obviously, people who plan these things simply don't care about us."

These reflections are taken not just from provincial but municipal elections as well. Therefore, we want to emphasize that Bill 231 must also consider municipal elections and the harmonization of accessibility through related legislation. The access afforded in one system cannot be any less in the other, especially in light of the fact that the provincial government has the ability to address both in time for this fall's province-wide municipal elections.

Now I'd like to ask my colleague Tina Marano to share with you some of her experiences in Ontario's electoral system for the next few minutes, after which my colleague Steven Christianson will offer some specific recommendations.

Ms. Tina Marano: Thank you, Janet. In 2007, Ontarians were promised an accessible election action plan for persons with disabilities that would coincide with the Accessibility for Ontarians with Disabilities Act that is supposed to be completed by 2025. Bill 231 does not provide the necessary actions to accommodate all voters in Ontario. The AODA Alliance has pointed out 23 significant problems with this bill, and I would like to relate to you through my personal experience how this bill will affect my ability to vote.

In the past, I have only voted a few times in both the federal and provincial elections, and the experience was not the greatest. First, as I have a dual disability, being visually and hearing impaired, I had to bring an intervener to the polling station so that they could read the paperwork and help me to check off my candidate of choice. This intervener was not provided by Elections Ontario. If I did not have access to an intervener or one was not available, I would not have been able to vote. Interveners are qualified people who know special communication such as American Sign Language, along with two-hand manual sign language, which consists of touching different points on the hand that correspond with the letters of the alphabet. They also act as a sighted guide. This is why new systems need to be used for the election process for people who are deaf-blind. There have never been any Braille documents provided to me. As a result, I have had to rely on a sighted person to assist me to check off my answers on paper. The use of accessible voting machines in fully accessible locations must be mandatory for Elections Ontario. Bill 231 does not make this mandatory, and this is unacceptable.

I don't get a chance to vote in most elections because of not being provided with enough accessible information on the candidates in order for me to make effective

decisions. It must be the law that Elections Ontario ensures that all candidates provide their respective information and campaign ideas in formats that everyone can access. This means using Braille, voice synthesizers, large print and even volunteers to bring this information to housebound individuals to ensure that they understand everything. The voting process as it now exists is not working for people with certain disabilities because there is no option to vote via Braille or large print. As well, there aren't enough assistants available to support the various types of disabilities that require help during the voting process. The polling station locations are not all readily accessible for those who are interested in voting in the advance polls. There is no question that every station must absolutely be wheelchair-accessible at the very least.

1340

In an ideal world, what would I like to see happen in order to increase participation for myself and for all people with disabilities in the electoral processes? As a possible solution, I ask that everyone be given an opportunity to vote via the Internet with the use of a reference number on the voting cards that are given to citizens prior to election day. On the voting card there should be clear language for everyone in this province to understand, whether they have a disability or not.

While I have heard about the electronic voting equipment, I don't know how successful and how clear the speech synthesizer or voice recognition is for people with a hearing impairment in addition to a visual impairment. If devices like these are going to be used, perhaps a Braille display should be attached to the keyboard.

If Bill 231 is passed by Parliament, it will continue to reinforce the exclusivity of Elections Ontario by not recognizing the basic requirements that permit people with disabilities to participate in the electoral process. For example, the only way I can work as a volunteer for a candidate during an election campaign is if I have a sighted assistant with me. If I were to work independently, it would be very difficult for me because I would need to see to go door to door to deliver pamphlets to voters. If Elections Ontario was mandated to use assistance services, I would be able to help other people with various disabilities through either electronic communication, over the telephone or by using Braille or two-hand manual sign language.

In order for Elections Ontario to fully understand the needs of people with many different kinds of disabilities, it would be ideal for a group of individuals who represent these disabilities to be assembled in order to advise the Chief Electoral Officer on how to make sure the voting process is completely accessible in accordance with the Accessibility for Ontarians with Disabilities Act.

Now I'd like to pass it on to Steven.

Mr. Steven Christianson: Thanks, Tina. We're wrapping up in about one minute. I'll use the remainder of our time to wrap up the comments and, in so doing, you'll find, echo much of what has been expressed by the

AODA Alliance, then make ourselves available for any questions if we do have any time.

First, Bill 231 must effectively ensure the removal and prevention of all barriers impeding voters and candidates with disabilities in provincial elections.

Second, there must be a comparable provision requiring the removal and prevention of barriers which impede voters and candidates with disabilities in municipal elections. These are typically the same type of barriers.

Third, the legislation needs to provide effective monitoring and enforcement to ensure that there is full compliance with these accessibility requirements.

Finally, we ask you to consider including in this bill a direction to Elections Ontario to receive and retain guidance from an accessibility adviser, as Tina mentioned, whose role would be to include assessing, monitoring and enforcing the removal and prevention of barriers to voters and candidates with disabilities, and to make ongoing recommendations toward achieving a barrier-free electoral system in Ontario.

Ontario's elections should be, and they can be, a model of participatory democracy and a modern-day echo of that made-in-Ontario institution, responsible government, that wonderful little institution of governance that we all learned about in grade school and really the underpinning reason why most of us in this room are here in the first place.

Do you want to close it off, Tina?

Ms. Tina Marano: I would just like to say thank you for giving us an opportunity to express our opinions on Bill 231.

The Chair (Mr. Bas Balkissoon): Thank you very much. There's no time left for questions.

ETHNO-RACIAL PEOPLE WITH DISABILITIES COALITION OF ONTARIO

The Chair (Mr. Bas Balkissoon): We will move to the next presenters: the Ethno-Racial People with Disabilities Coalition of Ontario; Mr. Selvamanikam Bhrapakaran, Maria Cruz and David Meyers.

Please state your names for the record. You have 15 minutes. If there's any time left at the end of your presentation, we'll allow questions from all sides.

Mr. David Meyers: Good afternoon, committee members. My name is David Meyers. I'm here, along with Maria Cruz to my right and Mr. Bhrapakaran to my left, representing ERDCO. We're the Ethno-Racial People with Disabilities Coalition of Ontario.

We'd like to begin our presentation by thanking the committee for providing us with this opportunity to participate in this process on Bill 231. It's a privilege to be here.

The Ethno-Racial People with Disabilities Coalition of Ontario, ERDCO, is a cross-disability organization. Our mission is to promote full inclusion and citizenship for ethno-racial people with disabilities through the principles of anti-racism, universal access and equity. We

partner with other stakeholders to help build inclusive communities.

Much of our work has involved heightening awareness of the intersecting barriers faced by ethno-racial people with disabilities and representing their voices to government. While it's well known that people with disabilities face major inequities in their efforts to fully participate in our communities—social exclusion, inequitable access to decent jobs and income, lack of an empowered voice, and yes, a barrier-filled voting process—it's a less recognized fact that Ontarians with disabilities from racial, ethnic and linguistic minority backgrounds face layers of additional disadvantage by virtue of the intersection of their disability with these other features.

What we at ERDCO have constantly heard from our constituents is that, in the eyes of their government, they feel their voices don't count and that, by extension, they don't count. An inaccessible voting process just continues to promote that indignity. So we think that a strong Bill 231 is essential for this and other marginalized groups of Ontarians with disabilities to have their voices heard at the ballot box, along with their fellow Ontarians, through an electoral process that's truly barrier-free.

1350

Like many others who have spoken before us, such as the AODA Alliance, we believe that among Bill 231's biggest flaws are: (1) that it omits key measures recommended by stakeholders for preventing and removing major obstacles to barrier-free access to the voting process; and (2) that it contains woefully inadequate provisions to ensure effective oversight and enforcement of its measures by Elections Ontario. I think some of the previous speakers spoke very eloquently about that issue.

Moreover, should it be passed in its current, weak form, we also see a continuation of the needless indignities and hardships people with disabilities have faced and continue to face. The video we saw earlier from Cathy Crowe really illustrates better than I can just what that's like in terms of unsafe and inaccessible polling stations, and Maria will talk a little bit more about that a bit later. We think Bill 231 needs to be strengthened to ensure that that injustice and others no longer happen.

One of our presenters here wants to tell a personal story of a challenge accessing a polling station recently.

Mr. Selvamanikam Bhrapakaran: Thank you, honourable members. My name's Selvamanikam Bhrapakaran. I want to tell you about an experience that I had actually with a municipal election, because I want that to be stressed: Not only Ontario elections but municipal elections need to be accessible as well.

It was the year 2006. I had just gained my citizenship in 2005, so I was excited that, for the first time in Canada, I would be able to exercise my vote independently. I come from a country, Sri Lanka, where we have been denied accessible voting rights; I think people with disabilities in Sri Lanka are still denied that same right.

In 2006, after I finished work—this was on a normal day—I went to the school where my children attend school and which is close to my home. I arrived there by about 1:45, so when I walked into the school my eldest daughter, who was in grade 6, was going from one class to another classroom. She came and asked, "Where are you going?" and I said, "I am going to vote," so she said she would help me to get to the gym where the voting was taking place. She came with me and took me to the clerk there so that they could confirm my identity, and then they said, "Here's your ballot paper." She gave me the paper, and I said, "I'm supposed to get a template along with this paper so I can mark it, and you are supposed to read me the names and numbers of the candidates." She said, "Why don't you ask your daughter to read and also mark it for you?" I said, "No, that is not what I am told. I know that secret voting is one of our rights and not even my daughter is supposed to read it to me. I know that there's a template that is supposed to be given."

The chief officer came around, the deputy returning officer, and she said, "If you want privacy, what I can do is I can read it to you and you can mark it." I said, "No, I need the template to do the voting in secret." She said, "Sorry; unfortunately we don't have it." Then I asked, "Is there a possibility of you getting the template down so I can come back later?" This place is about one kilometre from my home. They said they would try, and for me to come back later. I said, "Yes, I will be coming back. My wife is also vision-impaired, so two of us will be coming back."

By that time, the evening had arrived, around 5 o'clock, so I went home. The kids came back from school, so we accompanied them back to school, along with my wife.

My wife lost her sight very late in her life, so she lacks in mobility. I would like to emphasize one other thing as well here: For those people who are lacking in mobility, voting from home, phone accessibility, would be something that I would like to stress more as well.

We went to the polling station, and they had the template by then, so we were able to mark our ballots and drop them in. This is one of the experiences.

I would like to mention one other thing about this template itself. I am told that it was the CNIB that suggested the template for this poll, but I don't agree with one part of that template because it wants us to mark an X within a circle. This template has a circle. As a person who had sight until I was 10, I know how difficult it is to make an X, a straight X, in a circle. I would suggest making this template a rectangle or a square shape. That would make it easier for us to mark it.

Also, Maria will be talking about other accessibility features that we would like to have in the ballot process. Thank you.

Ms. Maria Cruz: Hi. Thanks for this opportunity to speak. I want to discuss some of the major accessibility issues that make it very difficult, if not impossible, for

people with various disabilities and disadvantages to exercise their right to vote.

First, there's a glaring lack of access to information leading up to the election and on election day. This includes very important stuff like where your polling station is, what candidates are running for office in your riding and who to contact if you have feedback or questions about the election.

Can you imagine the sheer frustration of not knowing where and when you're supposed to vote or who's running for office in your area and what they stand for? I don't have to imagine this because I'm almost totally blind, and in every election I'm handed pamphlets I can't read, I get unreadable or barely readable cards in the mail telling me where to vote, and I'm given other election information that's in print format that I can't read. Many other people like me are also given information they can't access or in a language that isn't easily understandable to them.

This is why it's so important for Bill 231 to require that all election information be available in multiple formats, including Braille, large print and electronic text, as well as in multiple languages besides English and French. This information should also be publicized by radio, TV, newspaper and fully accessible websites. Wherever possible, Bill 231 should also ensure that any TV announcements are both captioned and verbalized.

Another troubling concern is the lack of accessibility in many polling stations, candidates' offices and all-candidates' meetings. It's imperative that Bill 231 require these venues to be fully accessible for people with various mobility impairments, as well as have designated staff at the entrance of the building to direct or help people once they get in. It's also imperative that Bill 231 assure ASL interpreters and other various language interpreters at each of these venues.

Finally, it's important that Bill 231 greatly improve the accessibility of the current voting process itself. Each polling station should have ballots in various formats, including large-print and Braille ballots with, as Bhrapa said, a raised or embossed box for ease of marking.

The government should also look at alternative ways of voting, as was also discussed here, for example, through phone or TTY; online, through fully accessible websites; and also through fully accessible voting machines.

That's the end of my presentation. Thanks again.

1400

Mr. David Meyers: We just want to conclude by, again, thanking the committee for having us here.

We wanted to, again, endorse a lot of the great recommendations provided by the AODA Alliance that we've read and that we think really put forward lots of great ideas around provisions.

We think this is a timely and momentous opportunity for the government to act boldly, justly and with a progressive vision to keep a promise it made to Ontarians to make our electoral system genuinely accessible. We hope that this will happen.

Thank you very much.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to join us today. Unfortunately, there is no time left for questions.

MR. JACK SIEGEL

The Chair (Mr. Bas Balkissoon): We will move to the next presenter from Blaney McMurtry LLP, Jack Siegel. Please state your name for the record. If you leave any time at the end of your presentation, we'll allow questions from all sides. You have 15 minutes.

Mr. Jack Siegel: Thank you, Mr. Chairman. My name is Jack Siegel. I can safely say that I don't need to introduce myself to any of my friends over to my left here. For many purposes, I'm their lawyer.

I am here today strictly on my own initiative, however. I want to make it clear that over the years of acting as an election lawyer for Liberal candidates federally and provincially, and for municipal candidates quite literally of all stripes, I've developed what I think is fairly decent expertise in election law. I'm coming today with my own ideas, and I'm in no way speaking on behalf of my party, be it in caucus, be it as an organization or as my client. If there's something you don't like, blame me.

I would like to touch upon a number of things throughout the bill. I think I might be the only person coming before the committee, other than the Chief Electoral Officer, to talk about some of the other details here, though I might venture into areas where the people who have been speaking have greater expertise than I.

The first thing that I just want to talk about in general terms is transparency; the CEO did in fact mention this in his presentation last week. It's important that whatever we do in amending, modifying or advancing election law, it needs to recognize transparency in two respects, both in terms of the voting process and the ability of scrutineers, representatives of the candidates, to see and hear and, if necessary, intervene in what's going on to ensure the protection of the rights of the respective candidates; and then in the counting process itself to ensure that the ballots are fully counted in a transparent manner, so that when somebody wins and somebody loses, there are representatives of those people who can come back and say, "Yes, you lost fair and square." Particularly when a recount arises, the person who comes in second is entitled to know that there's no doubt about it.

I am venturing into the area of accessibility ever so slightly at this point just to say that a lot of ideas are coming forward on that front. By all means, they should be given every consideration, but they need to be weighed against the transparency of the process as well. Issues such as voting from home, particularly electronically, does not permit scrutineering—it may be necessary to make that compromise—but it also exposes the risk of loss of secrecy of the vote. If somebody can readily vote at home, there will be other people possibly in the room or in front of the computer knowing what they're doing,

and I think that's a bridge that needs to be ventured onto very, very cautiously.

Moving on to the process itself, the first topic I'd like to talk about—I'm basically following the sequence of the bill. The Chief Electoral Officer is being given the opportunity to make modifications to try out new processes, which I think is a terrific thing. Subsection 4.4(4) says that he shall not modify the rights and duties of scrutineers.

Last week, you heard him present a précis of a model whereby people would come into the voting area; if they have their registration card, they go right to the voting station and vote, and that's where a scrutineer can be. But if they don't have their registration card—either they didn't bring it or they're not on the list—then they go over to a separate table. As the law now stands, scrutineers have no rights at that table, and it seems to me that if you're going to modify the process, you've got to modify it in such a way that the rights and duties of scrutineers are preserved. And so, rather than to say, "They shall not be modified," I'm proposing—and I've provided some draft wording throughout my paper—that the Chief Electoral Officer shall in fact ensure that the rights and duties of scrutineers are not reduced, impeded or impaired, and that their ability to observe and participate is preserved or enhanced.

Again, referring back to the document, please, particularly research folks, go through it. There are things that I'm not going to mention in the 15 minutes that I've got.

With respect to returning officers, I'm a late convert to the notion that they should be non-partisan appointments. I say that because I've always felt that, regardless of who appointed returning officers, I was not hard done by in dealing with such folks, and they understood, because they had a partisan background, what we were going through. So certainly, just to put out a plea here, let's not throw out the partisans as we move to this process. Their experience means something.

Technically, there may be a problem with the 10-year renewal model, however. If, for example, a by-election or a general election, when we have minority governments, were to straddle one of those year-ends, we can't very well have the appointments of returning officers expiring in mid-election. I would suggest that a provision be added—and again, there's draft language here—that if that happens, that the election is going to cross that year-end, the appointments be automatically extended for six months.

On the other side of the coin, where you're filling a vacancy in the last six months of a cycle before the 10-year anniversary, it's going to be very difficult to find someone who's prepared to take a five-month appointment, do all this work, and have no assurance of being reappointed. I'd suggest that there be a provision there as well that if you're appointing in the last six months, from July 1 to the end of the cycle, rather than reappoint at that early stage, that it be a slightly longer than a 10-year

appointment that rolls through to the very next decennial date.

With respect to mobile polls, they're a great idea, obviously. They've worked federally for us for many years in the past—multi-institutions, very efficient, very sensible, unless you're not home when they come by. All the rest of us have 12 hours to vote, but if you're in a nursing home and you've got a doctor's appointment that day that you've been waiting for for months and the mobile station goes by, you're out of luck. What I'm suggesting is that there be a fallback here, that when the mobile station is finished doing its rounds, it return to a central voting location where people could at least attend to still cast their ballot and have the same rights and privileges as everybody else to vote over a 12-hour window.

Student residence provisions are great—a major advance. We've fought far too much over the years about this kind of thing. The only thing is, what I think the bill is missing is a provision to strike the student's name off the home voters list when they decide to go into the university poll because they're on a permanent register there, and I think there needs to be a process to make sure that we don't get duplicate entries.

A different kind of equity consideration relates to the advance polls. The bill says that an advance poll must be open on a Saturday that falls during the seven-day period set out for advance polls. Why Saturday? It seems to me that the logical answer is because you want people to have an opportunity to vote on the weekend, and Sunday is somebody's day of rest. It makes perfectly good sense, except for those who observe Saturday: Seventh-day Adventists, Jews and possibly some other groups that are not coming to mind. It can easily be fixed in one of two ways: that you provide that it be open both on the Saturday and Sunday that fall in that seven-day window. Cross-province, there are probably a lot of ridings where there's just no need for that, so a second alternative would be to have the Chief Electoral Officer designate the ridings where it's mandatory to have Saturday and Sunday advance poll voting.

1410

With respect to accessible voting equipment, again, there's no questioning at all of the notion of the desirability of this kind of thing. The list of the rules should, however, go to the nominated candidates, not just to the party leaders. We have to accommodate the independents, too, and sometimes smaller parties might not even do all that well communicating with their people on the ground.

I do have an issue with marrying the concept of producing a paper ballot and requiring vote tabulators to do it. They are not joined at the hip. There is a clear cost to having vote tabulators needed. The demonstration I saw from Elections Ontario—the advisory committee the CEO has—produced paper ballots that could be easily counted by hand: (a) you don't need the expense and (b) take a look at the municipal election law in this province over the last 20 years with vote-counting machines.

There has been far too much litigation, and returning to what I said at the beginning, there are some candidates who lost those elections who to this date don't know whether they really lost or whether the machines messed up when there was a half dozen ballots. There's an error rate in these things as well.

What I'm suggesting is that you do away with vote tabulation entirely or, failing that, insist that the machines be programmed to divert any ballot they cannot count, regardless of the reason why, and have it set aside for manual review so that scrutineers in the ordinary fashion can see. That goes along with the concept of maximizing the opportunity for every voter's vote to be counted if there is some kind of flaw in the process.

Finally, there is no need at all with a paper ballot to truck out these machines for a judicial recount. There will be a small handful of them, and the judges know what they're doing.

The special ballot process is, again, a similar concept to before. The list of electors should be marked and communicated to the candidates as to who's voting by special ballot, both as a security means and so we don't bother these people after they've already voted.

With respect to the write-in ballot—this might be the most radical thing I'm saying here. It didn't seem radical when I raised it a number of years ago when this concept circulated, but it is. There is a seven-day window from the date the writ is issued until day 21 when the candidates aren't necessarily nominated yet. But under a special ballot process, and this applies federally, you can go vote for someone who hasn't been nominated yet. In the case of a snap election, either the by-election that we had in Leeds–Grenville recently or in the case of a minority government being defeated, you may well not have nominated candidates yet. Why not permit people to vote by party name as well? We have them on the ballot now. We crossed that threshold in the last election. Allow people on a write-in ballot to mark off the party name of the candidate they support and do away with any problem of the person not being nominated or the person they thought was going to be nominated not being nominated.

Two more points: The Election Finances Act changes, I don't know that they go far enough. It seems to me each of you has a chief financial officer in your ridings and in your campaigns who has had to schedule an awful lot of work and take on huge amounts of responsibility. They're at risk of making mistakes. I would urge the committee to go as far as it possibly can in seeing that every aspect of the process is supported with accessible means of using databases, Elections Ontario providing electronic receipts, whatever it takes.

Finally, there is this point of websites, which is that we've played this silly game—all of us, from all parties over the last several elections. "Oh, you changed your website on election day." The accusations fly; I've attacked and I've defended, and it's all petty and silly. Doing away with this change is a great idea, but I don't know what an official website means, and that's the wording in the bill. It seems to me an easier way to

phrase it is to simply refer to the websites that are being included as election expenses as being the ones that are exempt.

Hopefully, I've left a little bit of time for questions because I was certainly looking forward to a dialogue. Hopefully, I wasn't talking too fast, either.

The Chair (Mr. Bas Balkissoon): I've got about 30 seconds each. The best they do is probably compliment you, so I'll take a chance on it.

Ms. Sylvia Jones: I have a real fast question on the Election Finances Act. With the ability for electronic receipting, the way the act is written right now, Elections Ontario has to set up a central database first. There have been concerns raised that because that's a July 1 deadline, and we're looking at a fall election, it's not going to happen. What are your comments?

The Chair (Mr. Bas Balkissoon): I'm not sure you have enough time to respond. I'll move to the next guy. You've got 30 seconds.

Mr. Jack Siegel: Leave me a few for each one and I'll try and squeeze it in.

The Chair (Mr. Bas Balkissoon): You can always get to her after the meeting.

Mr. Jack Siegel: Yes.

The Chair (Mr. Bas Balkissoon): Mr. Bisson.

Mr. Gilles Bisson: A quick question in regard to advance polls: A number of communities don't get any advance polls if they're fly-in, remote communities such as we have in northern Ontario. Do you think it should be obligatory that advance polls be offered to all communities?

Mr. Jack Siegel: I think there's an economy of scale problem, particularly in ridings like your own, sir. I think there should be as many as possible within reason. But the special ballot process is going to cover off a lot of those concerns. People will be able to mail them in from anywhere.

The Chair (Mr. Bas Balkissoon): Government side?

Mr. Greg Sorbara: I just want to do a quick advertisement. Jack Siegel has worked for this party for a number of years, but he is the best in the business and to each of the parties on the other side, if they're ever in a situation where they need a great lawyer on an election issue, call him. He'll disclose his conflict—

The Chair (Mr. Bas Balkissoon): Thank you very much, and we have to move to the next presenter.

Mr. Jack Siegel: Thanks, Greg.

Mr. Gilles Bisson: How much did you get paid for that?

Mr. Greg Sorbara: Nothing.

Mr. Jack Siegel: He gets a discount.

MR. DAVID GLOBE

The Chair (Mr. Bas Balkissoon): The next presenter is David Globe. Please come forward.

Interjections.

Mr. David Zimmer: See? We're all indebted to Jack over here.

Ms. Sylvia Jones: That's because you've all been in trouble.

Mr. Greg Sorbara: He just knows his stuff real well, that's all.

The Chair (Mr. Bas Balkissoon): Please state your name for the record. You have 15 minutes. If you leave any time at the end of your presentation, we'll allow questions from all sides.

Mr. David Globe: I think there will be plenty of time for questions. I'm going to be as brief as I possibly can.

David Globe is my name. I'm here representing four accessibility groups in Belleville: the Belleville accessibility group, the Hasting county one, the one for the Belleville General Hospital and the East Central Ontario Training Board.

When I joined these accessibility groups, I was told—and unfortunately, it hasn't always come to pass—that every accessibility group should be primarily people with disabilities. It's obvious, with some of the complaints and statements that I'm hearing here today, that not too many people who are in the know or who are working for Elections Ontario are people with disabilities. It would be interesting if you had a few people like myself on your committee—and I'll add Elections Canada to that—to help them come up with ways of solving some of these problems.

The bill, section 23 that we're talking about here, must be made stronger. All of the things that it says in the bill that are not mandatory—it's obvious that those things need to be made mandatory to make it a stronger bill. Otherwise, it's not much more than suggestions.

This coming fall, I'm going to get to try out this machine, which is supposedly going to do everything but do the dishes, I've been told. It's supposed to help me vote in the municipal election. I have yet to check it out, of course, but I'm dubious at best about finding out what this machine can do. I've heard that they cost an awful lot of money, and, of course, that's because they're brand new. As was stated earlier, we need to be in touch with our fellow voters in the US who have been dealing with this kind of thing for years, and we can find out how to do it with much less expense.

All ballots, as was mentioned earlier, should be made accessible and perhaps tactile so that we can tell which side is up and which way we put it into the machine or whatever. All of the candidates should have some kind of material that can go out to people with disabilities, that we can tell what it is and at least find out a little bit what their platform is. I have attended a few—several, actually—all-candidates' meetings, and they are anything but accessible. It's just by trial and error that I get there and actually find the place and get to meet some of the candidates. It's one of those deals where things have to be made stronger.

1420

Polling stations, as you've heard earlier, must be made more accessible, and that is a must. Unfortunately, I fell on Christmas Eve and broke my ankle and was in a wheelchair for a couple of months—for a month, any-

way. I found that some of these ramps that were spoken so highly of have a great big step up at the top of them. So I fail to understand why they can leave such an obstacle in place. These are in places that are used quite frequently for elections and so on.

All staff who are assisting people by coming into their homes and helping them vote—this is a proposal that was put forward—should be—I would think that it would have to be a bonded kind of person who would do this kind of thing, because you're dealing with people's homes. This is going to be a real bone of contention with people, I'm sure. But all of this has to be made much, much stronger; otherwise, this is not worth a whole lot more than our time.

Thank you very much.

The Chair (Mr. Bas Balkissoon): Thank you. We have about two and a half minutes each. We'll start with Mr. Prue.

Mr. Michael Prue: Thank you for your submission. You've said a good many important things, but what particularly intrigued me was your recent bout of breaking a leg and discovering yet another disability with the step at the top of the ramp. This is something that we heard from an earlier deputant, Cathy Crowe, who took some pictures and showed them to the committee.

The person responsible for Elections Ontario said that 99% of our polling booths were accessible, but the people from the committee or people who study this or people who are disabled in some way disagree. What is your view on this? Are they accessible?

Mr. David Globe: You're asking someone who only had to be in a wheelchair for one month and who got to go to only a few public areas that were for polling stations. It's very obvious to me that the person who said they are accessible has never been in a wheelchair or has never had to manoeuvre some of these areas in a wheelchair or had to deal with some of the obstacles that these people have.

Mr. Michael Prue: We had suggestions from the Ethno-Racial People with Disabilities Coalition of Ontario. The gentleman made a very good point, I thought, in terms of the template to put on top of a ballot so he could mark it. One of the suggestions was instead of having a circle in which you put your X, to have a rectangle so that you can feel the outlines of it, and more correctly. It seemed so obvious to me. I don't know why it has never been thought of. Is that something that would assist the visually impaired, to have a box which is an X as opposed to a circle? I know it's just a little, tiny, simple thing, but it seems that if you can draw the lines from the corners, it's a whole lot easier than trying to draw it in the middle of a circle.

Mr. David Globe: Good idea. I like the idea of the rectangle or the square. I would also suggest that if you're going to do that, then if you want to go all the way and enhance it even more, if this is for people who are blind, and some blind people do read Braille, such as myself, I would ask, then, that there be a list of the candidates over on the left-hand side. I'm just saying that if

we're in an election, and there are three parties running, three parties isn't so much to remember. But in a municipal election where there are numerous, it would be nice to have a list.

Mr. Michael Prue: I agree. At the present time, there are 40 registered candidates for mayor of Toronto—

Mr. David Zimmer: Forty?

Mr. Michael Prue: Forty, yeah. So I can understand fully what you're saying here. Thank you very much.

The Chair (Mr. Bas Balkissoon): To the government side.

Mr. Joe Dickson: David, slightly off-topic, but I'm so impressed by your associate on the floor. What is your dog's name?

Mr. David Globe: Killer. No, I'm sorry.

Mr. Joe Dickson: That happens to be the best line of the day.

Mr. David Globe: No, his name is Balder, as in balderdash.

Mr. Joe Dickson: Balder. Thank you very much, David. Good afternoon, Balder. You're always my friend.

Sir, whatever is approved in this process—throughout the last couple of days I've heard certain things, and I'd just like to get your input on the big picture. Would you concur that some type of checklist may be appropriate on the day of an election? If so, would you think that most groups would partake and perhaps submit one of their own examples of a checklist?

Once a checklist is approved by the process—in this case in the hopes that it would be—would you concur with having a disabled contact at each poll or each voting station who could work in liaison with the returning officer, who in turn could work with the Chief Electoral Officer if there was an emergency that day that nobody was going to resolve, and someone possibly was going to lose their obvious right to vote?

I know it's a multiple question, but I've heard a few times where people couldn't vote, and it just seriously concerned me. I just wonder if I can get your insight on that, sir.

Mr. David Globe: Why don't you ask me a big question? Gee whiz.

I'm unsure as to what you mean by a checklist. I'm confused by that statement.

Mr. Joe Dickson: Sorry. That was just a list, sir, where people would notice certain things that were improprieties and would actually disallow disabled people to vote on that particular day, such as access.

Mr. David Globe: I would feel that someone actually cared if there was such a person who we could take our, for lack of a better term, complaints to. I would feel sorry for that person on some days, I'm sure, but I think it would be nice to be able to voice our displeasure with someone. I think that would be a great idea.

The Chair (Mr. Bas Balkissoon): We'll move to the Conservative Party. Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation, Mr. Globe. I have a question because you raised home

visits and telephone or other forms of voting using technology. If you had access to either telephone voting or technology that, currently, Bill 231 does not allow which is tied into a network, would that be your preference over home visits?

Mr. David Globe: Absolutely. I do telephone banking now, and I find it quite secure. Obviously, someone is checking that to know what I'm doing in my banking, so it would only stand to reason that the scrutineers or the people who are put in place to count ballots and so on should have access to this to know who voted which way.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much, David, for taking the time to be here with us.

Mr. David Globe: Thank you.

1430

CANADIAN HEARING SOCIETY

The Chair (Mr. Bas Balkissoon): The next deputa- tion is the Canadian Hearing Society, Gary Malkowski. Gary, you have 15 minutes. You know the routine. Please state your name for the record. We'll allow questions at the end. Go ahead.

Mr. Gary Malkowski (Interpretation): Hello, I'm Gary Malkowski, the special adviser to the president of public affairs at the Canadian Hearing Society. We're an agency that works with and for individuals who are deaf, oral deaf, deafened and hard-of-hearing and have done so for the past 70 years. We operate in 28 offices across Ontario. CHS strives to develop high-quality and cost-effective services in consultation with national, provincial, regional, local consumer groups and individuals. CHS is a leading provider of services, products and information that remove barriers to communication, advance hearing health and promote equity for people who are culturally deaf, oral deaf, deafened and hard-of-hearing.

The Canadian Hearing Society is a member of the Accessibility for Ontarians with Disabilities Act Alliance. We wholeheartedly endorse the submissions of the AODA Alliance and ARCH Disability Law Centre on Bill 231. The recommendations we put forth in this paper support those contained in the position papers being sent to the standing committee on Bill 231. However, we will focus specifically on the needs of persons who are culturally deaf, oral deaf, deafened and hard-of-hearing.

For your background, I have worked with the Ministry of Community and Social Services in developing this document entitled Count Us In, a guide to accessible campaign information and communication and accessible all-candidates' meetings. These documents are available on the website. They are also available on the Elections Ontario website. They're beautiful in print, but unfortunately there's no funding to support them.

I'll show you here a number of documents that I've brought with me today. These have all been along with the government since 2003. I have written letters to the Minister of Municipal Affairs, which I have here with me. This binder I have here is full of letters I have written

to the Ministry of Community and Social Services, to the Premier, to the Ontario Human Rights Commission and to the Ontario Ombudsman. That's the other binder that I have here containing all those documents and letters and correspondence. The next binder you'll see here is all of the correspondence that I have written. One is to you actually, the select committee and Greg Sorbara. I sent that to you, and the response was that we would be meeting. That was a commitment that was made that I would be coming to the select committee. Unfortunately, to date, I have yet to receive that invitation. I would, however, like to thank you for inviting me today.

There are a number of barriers that I face. I planned on running as a councillor in the city of Toronto. Before I did so, I checked in with municipal affairs and checked in with the city clerk and asked, "Who is it who's responsible to pay for the accommodations?" The response was that it was mine. That's how it's defined in the Municipal Elections Act. I contacted Elections Ontario and asked, "Who is it who's responsible to cover the costs of all-candidates' meetings and making those arrangements?" It's not in their jurisdiction. It's not within their mandate, which is very interesting. Elections Canada, however, which I found very interesting, developed a proposal and was considering putting in a budget for accessible all-candidates' meetings. They had identified that they would do so, one per riding. That was the proposal that they had put together.

This committee today, for me, is the last straw, with all of the documentation that I'm bringing forward here on the table with me. I'm asking you to think about what it is that you want to do for an accessibility plan. How many lawsuits would it take? "How many lawsuits can the government afford?" is what I guess I'm asking. You need to remove the barriers. You can either remove the barriers or go forward with legal action and trying to defend that.

The law commission and the human rights commission are very clear on the duty to accommodate. The federal government has been very clear in the federal court decision and the Canadian Association of the Deaf, again, very clear on the legal responsibilities and accountabilities in sections 14 and 15 and section 3, talking about democratic rights. All of this information has been brought forward to the electoral process, and just as recently as two weeks ago, Canada ratified the UN Convention on the Rights of Persons with Disabilities. It's been signed off on by our government.

I'll ask you to consider and to think about all of the legal cases that we have. There are so many legal cases that we could potentially move forward with. I mean, you've heard from a number of presenters today, many of them speaking about the Hughes case. I think that's a very important piece that has impacted the system in terms of needing to remove a number of barriers.

We are making a number of recommendations with this submission. The recommendations are that Bill 231 be amended to include the following provisions:

- access to the democratic process for people with disabilities, because they have less of a legislative and funding home. For example, consider including provisions for accessibility as a campaign expense under the Election Finances Act;

- that barriers to political participation be removed by funding access and accommodation for accessible campaign information and communication, accessible all-candidates' meetings, and accessible constituency, riding association, central party and campaign offices;

- review the Municipal Elections Act, in consultation with Elections Ontario, to ensure accessible democratic and election processes for persons with disabilities;

- in consultation with MCSS and the Accessibility Directorate of Ontario, plan for further activities to promote the inclusion of people with disabilities in the democratic process. This could include the development of an educational strategy in advance of the next municipal election in November 2010 and the provincial election in 2011. The strategy would seek to engage the disability community, municipal accessibility advisory committees, political candidates, parties and organizers. Included in the strategy could be two accessible training components: one, training for canvassers for door-to-door campaigns; two, training sessions for the organizers on the delivery of accessible all-candidates' meetings in partnership with the ARCH Disability Law Centre, the AODA Alliance, the Canadian Hearing Society and other key organizations.

I guess in conclusion, for me, thinking about the civic rights and freedoms and looking at sections 14 and 15, as well as the Human Rights Code—and Barbara Hall, the chief commissioner, has explained it—there is a legal duty to accommodate. Recently, the UN Convention on the Rights of Persons with Disabilities being ratified is another component to that puzzle.

I ask you, as members, to make the choice so that it's not a legal approach that needs to be taken, because all of the expenses that would be spent in that arena would be better spent in the prevention of discrimination and the removing of barriers. So I'll ask you to invest in the latter and to consider that.

The Chair (Mr. Bas Balkissoon): Thank you very much. We've got just over two minutes per side for questions, and we'll start with the government.

Mr. Greg Sorbara: Perhaps, with the permission of my colleagues, I'll start off.

First of all, Gary, we're glad to have you at this committee and glad to see you back in the building. Many of us remember when you had a seat in the Legislature, and that was a strong time and a powerful expression of your determination on all of the issues that you spoke about today.

I think where we have a disagreement here is primarily in the area of the behaviour of candidates and the availability of support for candidates with disabilities, and in particular—you and I have talked about this a great deal—the extension of this act to an area where it has never delved, the area of all-candidates' meetings.

It's not, as a practical matter, the political parties or individual candidates who actually convene all-candidates' meetings; it's organizations, community organizations. It might be a ratepayers' organization; it might be an advocacy group.

1440

But it seems to me, as the person who was the Chair of a select committee on the Election Act with a mandate to do some modernization of the act, that getting into a very new territory, and that is regulating the way in which candidates participate in the election, would be beyond the scope. I continue to believe that moving this act into that area would not be advisable now, even if it were advisable at another time. I'd be interested in your comments.

Mr. Gary Malkowski (Interpretation): Specifically with the Municipal Elections Act—there are no political parties involved in that arena—I'd ask, who's responsible in covering the accommodations? Should I choose to run as a city councillor, who would be responsible? Because legislation currently is not there. I guess I'm asking, who would be responsible for that and who would be covering the costs of accommodations for individuals with disabilities should they choose to run as a city councillor?

Mr. Greg Sorbara: Again, I think the—

The Chair (Mr. Bas Balkissoon): I have to move on to the next question and the Conservative Party. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation today. I'll follow up on Mr. Sorbara's question, or at least along the same lines, and that is, I guess, the funding for accommodation. Currently, at least in a provincial election, the candidates and the party are responsible for fundraising, and there are some substantial tax credits, I think up to 75%, for those people who choose to donate to that particular political party.

You're suggesting a very different model, I assume. It sounds like you're suggesting that the government itself fund accommodation for particular candidates in an election. I'd just like you to expand a bit on that and explain what you're looking for.

Mr. Gary Malkowski (Interpretation): I think if we are talking about a provincial candidate, there is funding; there are accommodations available to them via the political party, and the fundraising dollars would cover that cost.

For us, I guess, the long-standing issue is all-candidates' meetings. If they are able to prove undue hardship at that level, the hosting level—again I'd look to the Municipal Elections Act, where again there are no political parties. So who would be responsible to cover the accommodations and the cost for the candidate with the disability who chooses to run? Where would those dollars come from?

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move on to the next question. Mr. Prue.

Mr. Michael Prue: Gary, as always, a pleasure to see you.

I think governments have to make a choice, and they have to say where their money is going to go. We heard the other day about the remarkable decision of the city of Peterborough, which spends a lot of money, for a little city, to ensure that people with disabilities can vote.

The government could quite easily put money aside for the election process—as they do now to encourage people to vote—to encourage people with disabilities to come out and hear. Is this what you're trying to ask, that the money given to the electoral commission also be meted out to allow full participation?

Mr. Gary Malkowski (Interpretation): There are two important areas with that. There should be a budget that's established for Elections Ontario completely focusing on access. It could be for registering to vote, to cover the costs in that respect; it could be for the advance polls; it could be for the special polls, all of which would have accommodations under that budget. Then we speak about the candidates. If it's a political party, of course, they're going to need to take the responsibility for the accommodations. Should it be an independent candidate, where there is no political party association, then that's where I would ask for a different approach.

In the next piece, we'd need to deal with the Municipal Act. Where exactly would the accommodations be found in that arena? I think that's an important piece, that the Municipal Act be amended to be able to see that the city clerks develop a budget specifically for accommodations to cover that. It shouldn't be punitive for costs and accommodations when somebody is moving forward with a campaign. It should be a separate budget. Sixty thousand dollars is permissible, related to the campaign expenses. That should not include the costs for accommodations. That should be separate. It should be \$60,000 for the campaign expenses, and there should be additional funds permissible specifically for the accommodations.

That's not addressed in the Municipal Act, and it doesn't speak to that within the Municipal Elections Act, so that's where I would ask for an amendment allowing for those additional funds to be permitted for a candidate.

The Chair (Mr. Bas Balkissoon): Thank you very much, Gary, for coming and presenting to us today.

We'll now move to the next presenter. The next group is the Alliance for Equality of Blind Canadians, Valentina Gal. Is the next presenter here? Last call: Valentina Gal?

Mr. Michael Prue: I think, to be fair, perhaps we can take a two-minute recess. It's not quite a quarter to 3. I think, to be fair, that's when she was scheduled to be here.

The Chair (Mr. Bas Balkissoon): Okay. I've got a couple of business items for committee that we could deal with while we wait.

Mr. Michael Prue: That's fine. I withdraw my request, then.

The Chair (Mr. Bas Balkissoon): Okay. We'll just do this and we'll announce them again.

COMMITTEE BUSINESS

The Chair (Mr. Bas Balkissoon): I just want to remind committee members that the deadline for filing amendments is 2 p.m. next Wednesday, April 7. Also, your subcommittee had decided that we would meet on Wednesday, April 14, for clause-by-clause from 12 to 3. I'm just wondering if committee members still believe they need the full 12 to 3, or would you like to start at 1?

Ms. Sylvia Jones: Sorry; this is April 14?

The Chair (Mr. Bas Balkissoon): April 14, we'll meet for clause-by-clause, and we're scheduled to start at 12 and go to 3. I just wondered if you wanted to take your one-hour lunch break and start at 1 instead.

Ms. Sylvia Jones: I think until we see how many amendments we have, we should leave that block as is.

The Chair (Mr. Bas Balkissoon): Can we have it that it would be at the call of the Chair? I can't judge how long you would want to debate each clause.

Mr. Michael Prue: I would rather start at 12 o'clock, and if we finish early, then so much the better; if we don't, I want to make sure we have enough time to deal with this.

The Chair (Mr. Bas Balkissoon): So our consensus is that we still start at 12? Okay. I just wanted to run that by you.

Mr. Michael Prue: Besides, I'm getting used to these little sandwiches.

The Chair (Mr. Bas Balkissoon): We can cut them in half so you feel like you're eating twice the amount.

The next presenter was the Alliance for Equality of Blind Canadians, Valentina Gal. Is Valentina here? Once. Twice. I guess they're not going to show.

Mr. Greg Sorbara: Mr. Chair, if I might just note for the record that a submission has been provided to us from the alliance, and I think all members of the committee have it and will have an ability to go through it in our own time.

The Chair (Mr. Bas Balkissoon): And I'll ask committee members to take it into consideration.

With that, the meeting is adjourned until Wednesday, April 14, at 12 o'clock for clause-by-clause consideration.

The committee adjourned at 1447.

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Substitutions / Membres remplaçants

Mr. Jim Brownell (Stormont–Dundas–South Glengarry L)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. David Zimmer (Willowdale L)

Also taking part / Autres participants et participantes

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Larry Johnston, research officer,

Legislative Research Service

CONTENTS

Wednesday 31 March 2010

Election Statute Law Amendment Act, 2010, Bill 231, Mr. Bentley / Loi de 2010 modifiant des lois en ce qui concerne les élections, projet de loi 231, M. Bentley.....	M-27
Ontario Public Service Employees Union.....	M-27
Ms. Helen Riehl	
Ms. Janet Heyman	
Canadian National Institute for the Blind	M-29
Mr. Chris McLean	
Accessibility for Ontarians with Disabilities Act Alliance	M-31
Mr. David Lepofsky	
Ms. Penny Leclair	M-33
Ms. Cathy Crowe	M-35
ARCH Disability Law Centre	M-37
Ms. Ivana Petricone	
Ontario March of Dimes	M-39
Ms. Janet Macmaster	
Ms. Tina Marano	
Mr. Steven Christianson	
Ethno-Racial People with Disabilities Coalition of Ontario	M-40
Mr. David Meyers	
Mr. Selvamanikam Bhrapakaran	
Ms. Maria Cruz	
Mr. Jack Siegel.....	M-42
Mr. David Globe	M-44
Canadian Hearing Society.....	M-46
Mr. Gary Malkowski	
Committee business	M-49

M-3



M-3

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 14 April 2010

Journal des débats (Hansard)

Mercredi 14 avril 2010

Standing Committee on the Legislative Assembly

Election Statute Law
Amendment Act, 2010

Comité permanent de l'Assemblée législative

Loi de 2010 modifiant des lois
en ce qui concerne les élections



Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.



LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 14 April 2010

Mercredi 14 avril 2010

*The committee met at 1224 in room 151.*ELECTION STATUTE LAW
AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES ÉLECTIONS

Consideration of Bill 231, An Act to amend the Election Act and the Election Finances Act / Projet de loi 231, Loi modifiant la Loi électorale et la Loi sur le financement des élections.

The Chair (Mr. Bas Balkissoon): I call to order the meeting of the Standing Committee on the Legislative Assembly. We're here today on Bill 231, An Act to amend the Election Act and the Election Finances Act, for clause-by-clause consideration.

Before I get into the clause-by-clause, are there any comments, questions or amendments to any section of the bill? Additional? Mr. Zimmer.

Mr. David Zimmer: We've got a lot of paperwork here. We've got 100 amendments to get through. I wonder if I might have the indulgence of the committee just to have one of my aides from the Attorney General's office close by.

The Chair (Mr. Bas Balkissoon): Agreed? Agreed. Everyone in agreement?

Mr. Michael Prue: One minute—is this to assist Mr. Zimmer or the committee?

The Chair (Mr. Bas Balkissoon): This is to assist Mr. Zimmer.

Mr. Michael Prue: Then I would like someone here to assist me. I have a staff sitting out there. He has an assistant; I would like one too.

The Chair (Mr. Bas Balkissoon): They have to sit slightly behind you. Is it agreed, also, to Mr. Prue's request? Mr. Chudleigh, you have the same?

Mr. Ted Chudleigh: I have the same request.

The Chair (Mr. Bas Balkissoon): Okay. Do we have agreement on all sides?

Interjections.

The Chair (Mr. Bas Balkissoon): Okay. Any other comments, questions, further amendments? No? Okay.

We'll move to section 1.1. The first amendment is 0.0.1: NDP motion, Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"1.1 The act is amended by adding the following section:

"Application of accessibility provisions to municipal elections

"1.0.1 The provisions of this act that relate to accessibility for persons with disabilities apply, with necessary modifications, in respect of municipal elections."

The Chair (Mr. Bas Balkissoon): Mr. Prue, as the Chair, I'll have to rule this one out of order because I don't believe the act in front of us deals with the Municipal Elections Act.

Mr. Michael Prue: It is quite true that it does not, Mr. Chair, but if this were placed within the body of the act, I think it would give the power to the Minister of Municipal Affairs and Housing by regulation to enact the same.

The Chair (Mr. Bas Balkissoon): I'm sorry, but I'm going to rule this out of order.

We'll move on to section 1.2. Page 0.0.2: NDP motion, Mr. Prue.

Mr. Michael Prue: We'll try again. I move that the bill be amended by adding the following section:

"1.2 The act is amended by adding the following section:

"Publication on website

"1.2 In this act, any information that is required to be published on a website on the Internet shall be published in one of the following accessible formats:

"1. A format that complies with the W3C WCAG 2.0 Level AA standard.

"2. A format that complies with a standard that results in more accessibility than the standard referred to in paragraph 1, if such a standard has been prescribed."

By way of explanation, this motion ensures that all election information required to be posted on the Internet be posted in formats that can be accessible by people with disabilities. There's no sense in posting it if it is not accessible. This would allow virtually anyone to use this and have access to the same information as a person without disability.

The Chair (Mr. Bas Balkissoon): Questions, comments? The government side—Mr. Zimmer. No? The PC—Mr. Chudleigh. No? Everyone understands the motion?

All in favour? Against? That loses.

Shall section 1 carry?

Interjection.

1230

The Chair (Mr. Bas Balkissoon): On section 1—before I take the vote, are there any comments or discussion of the bill?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

We'll move to section 4. Page 0.1, a PC motion: Mr. Chudleigh.

Mr. Ted Chudleigh: I move that paragraph 1 of subsection 4.4(2) of the Election Act, as set out in section 4 of the bill, be amended by adding at the end "including, without limitation, achieving accessibility for electors and candidates with disabilities".

The Chair (Mr. Bas Balkissoon): Any further discussion?

Mr. Ted Chudleigh: Despite the technological and other advances, Ontario electors with disabilities continue to face unnecessary barriers to voting. This motion highlights the fact of improving the voting process for electors, including working to achieve accessibility for electors with a disability.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Prue.

Mr. Michael Prue: Briefly, I think this is a bit of a motherhood issue, but I'm going to vote for it because, quite frankly, it leaves it open for people in Ontario's election commission to strive always in that direction. I don't know what it's going to achieve other than that, but I think they should have that in front of them in every election.

The Chair (Mr. Bas Balkissoon): The government side, Mr. Zimmer? No comment? We shall take the vote on motion 0.1. All in favour? Against? That does not carry; it loses.

Page 0.2, a PC motion: Mr. Chudleigh.

Mr. Ted Chudleigh: I move that subsection 4.4(3) of the Election Act, as set out in section 4 of the bill, be struck out.

The Chair (Mr. Bas Balkissoon): Any further comments?

Mr. Ted Chudleigh: The reason for the motion: Examples such as those in subsection (3) are better placed in a supplementary or explanatory document which supports the act. During a briefing on Bill 231, we asked what the purpose of these examples was, and we were informed that the purpose of providing these examples was merely explanatory. The intent was not to have them included in the bill.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Prue? Mr. Zimmer? No.

We'll take the vote on motion 0.2. All in favour? Against? That loses.

We'll move to page 0.2.1, an NDP motion. Mr. Prue.

Mr. Michael Prue: I move that subsection 4.4(4) of the Election Act, as set out in section 4 of the bill, be amended by adding the following paragraph:

"4. Any requirements under this or any other act relating to accessibility for persons with disabilities."

By way of explanation, this motion allows for modifications to the provisions of this act for any reason that will make the act more effective in removing barriers for the disabled. It simply allows people who are responsible for the conduct of the election to do things that are necessary, if it is not contained within the four walls, to ensure that barriers for the disabled are removed.

I'd like a recorded vote on this one, please.

The Chair (Mr. Bas Balkissoon): Questions or comments? Government side? None.

The opposition, Mr. Chudleigh?

Mr. Ted Chudleigh: I think it's a good motion. We'll be supporting it.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested.

Ayes

Chudleigh, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion loses.

We'll move to page 0.3, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I'd like to amend this motion, if I might. In subsection (4.1), in the third line, where it says "modification is to," I would add "maintain or increase the requirement." So I would add "maintain or" into that. I'll read the amended motion.

I move that section 4.4 of the Election Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Same

"(4.1) No requirement for accessibility under this act, the Human Rights Code or the Accessibility for Ontarians with Disabilities Act, 2005 shall be modified under this section unless the effect of the modification is to maintain or increase the requirement."

The Chair (Mr. Bas Balkissoon): Further comments?

Mr. Ted Chudleigh: The addition of this subsection protects the existing requirements in this and other acts as they relate to accessibility. It recognizes that they are fixed, minimum standards that can only be enhanced. This motion is similar to the existing provision found in subsection 13(3.3).

The Chair (Mr. Bas Balkissoon): Questions or comments? The NDP: none? Government side?

Mr. David Zimmer: Speaking to the motion to amend by adding the words "maintain or," we'll be supporting that.

The Chair (Mr. Bas Balkissoon): So we're going to vote on the amendment to this amendment. All in favour? That carries.

Now we'll take the motion as amended. PC motion 0.3: All in favour as amended? That carries.

We'll now move to page 0.4: NDP motion, Mr. Prue.

Mr. Michael Prue: I move that section 4.4 of the Election Act, as set out in section 4 of the bill, be amended by adding the following subsection:

“Limitation

“(4.1) No modification may be directed under this section unless the Chief Electoral Officer has certified that the modification will result in accessibility, which at a minimum fulfils the accessibility requirements set out in the Human Rights Code, for electors and candidates with disabilities.”

By way of explanation, this motion calls for any modification being to standards of accessibility as defined in the Human Rights Act. We believe that the Human Rights Act is necessary to protect those persons with disability and to ensure that they have full and complete access in all things electoral. I would ask for a recorded vote on this as well.

The Chair (Mr. Bas Balkissoon): Questions and comments? Government side? Opposition?

Mr. Ted Chudleigh: It's very similar to one of ours, so we'll be supporting the motion.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the motion. A recorded vote is requested.

Ayes

Chudleigh, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion loses.

We'll move to page 1, a government motion.

Mr. David Zimmer: I move that clause 4.4(6)(d) of the Election Act, as set out in section 4 of the bill, be struck out and the following substituted:

“(d) refer to the provisions of this act that will not be complied with and specify the nature and extent of non-compliance in each case.”

The effect of this is to clarify how the modified voting process differs from the existing voting process. It requires the CEO to provide more statutory detail. It was recommended by Mr. Jack Siegel in his submissions to the Standing Committee on the Legislative Assembly.

The Chair (Mr. Bas Balkissoon): Questions and comments?

I'll take the vote on the motion. All in favour? It carries.

Page 1.1, a PC motion.

Mr. Ted Chudleigh: I move that subsection 4.4(10) of the Election Act, as set out in section 4 of the bill, be struck out and the following substituted:

“Report

“(10) When an election is conducted in accordance with a direction under this section, the Chief Electoral Officer shall,

“(a) include an evaluation of the modifications made by the direction,

“(i) in any report that the Chief Electoral Officer makes with respect to the election, or

“(ii) in the next annual report made under section 114.3;

“(b) publish the evaluation on a website on the Internet; and

“(c) provide copies of the evaluation to the leader of each registered party.”

By way of explanation, this motion increases the availability of relevant information for all voters. In light of our motion to require Elections Ontario websites to meet a minimum accessibility standard, publishing information such as this evaluation on the Internet will increase access for a greater number of electors.

1240

Also, this motion accounts for the fact that we are in an age when people, and especially younger generations, are increasingly using the Internet as their primary source of information. Information on the Internet can be easily uploaded and will be available to a wider audience.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Prue.

Mr. Michael Prue: Just a question. The first or the second motion that I made today would have allowed that this would be accessible to persons with disabilities. This will allow it to be available to a broad range of people, but not necessarily those with disabilities. Is there any intent to include the disabled in this?

Mr. Ted Chudleigh: It includes everyone, including those with disabilities.

Mr. Michael Prue: But this is not in a format—as set out, I don't believe it's in a format that allows the disabled access to it. I don't have a problem with making it more generally available, and I'll probably vote for it, but it seems to me that a great deal of the discussion we have had around this table over the last number of days has been in order to allow persons with disabilities to have equal access. Without giving an opportunity for it to be formatted in that way, what we are simply doing is another avenue that they cannot access.

Mr. Ted Chudleigh: We have another motion—

The Chair (Mr. Bas Balkissoon): If you can just speak into the mike for Hansard.

Mr. Ted Chudleigh: Sorry. We have another motion coming up that talks to that.

Mr. Michael Prue: Okay. All right. Thank you.

The Chair (Mr. Bas Balkissoon): Questions? Comments? The government side? Mr. Sorbara.

Mr. Greg Sorbara: Just to make the point that the standard with Elections Ontario will be to use the very latest formats to ensure access on the Net by anyone and all groups that need special formatting.

The Chair (Mr. Bas Balkissoon): Okay. I'll take the vote on the motion. All in favour? That motion carries.

That completes section 4. Shall section 4 carry? Carried.

The Clerk of the Committee (Ms. Tonia Grannum): As amended.

The Chair (Mr. Bas Balkissoon): Sorry. Shall section 4, as amended, carry? Carried. My apologies.

We move to section 4.1, page 1.2, an NDP motion. Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

“4.1 The act is amended by adding the following section:

“‘Chief Electoral Officer responsibility for accessibility

“4.5 The Chief Electoral Officer is responsible for ensuring that each election is fully accessible to electors and candidates with disabilities for the purpose of promoting their full participation in the election.”

Just by way of background, this is a general motion making the Chief Electoral Officer clearly accountable for taking whatever action necessary to ensure accessibility during elections. In our view, there needs to be a person named who is accountable, and to whom the Legislature, the courts, the Human Rights Tribunal or whom-ever can go to to ensure that all things necessary were done to assist those electors who have disabilities, and as well those candidates who are seeking election who have disabilities. Therefore, we are naming the individual and making him or her ultimately responsible.

The Chair (Mr. Bas Balkissoon): Questions? Comments? The government side? None. Opposition? None.

Mr. Michael Prue: On a recorded vote, please.

Ayes

Chudleigh, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion loses.

We'll move to section 5, page 2, a government motion. Mr. Zimmer.

Mr. David Zimmer: I move that subsection 7(4) of the Election Act, as set out in section 5 of the bill, be amended by striking out “December 31, 2013” in the portion before the paragraphs and substituting “the rollover date”.

The Chair (Mr. Bas Balkissoon): Further comments?

Mr. Michael Prue: What does that mean?

Mr. David Zimmer: The date's already identified in the definition of the rollover date.

Mr. Michael Prue: Which is?

Mr. Greg Sorbara: It's a very technical amendment, Michael.

Mr. Michael Prue: I know it's technical, but I just want to make sure that this is not slowing up the process.

Mr. David Zimmer: No.

Mr. Michael Prue: It will happen no later than December 31, 2013?

Mr. Greg Sorbara: Yes.

The Chair (Mr. Bas Balkissoon): Mr. Chudleigh, do you have any questions or comments?

Mr. Ted Chudleigh: How do we know that?

Mr. Greg Sorbara: Well, we could get you a memo on that as to setting out how the rollover date is identified, and if you want to step this one down for a bit, we can do that. But the fact is that the date is already identified in the definition of “rollover date.” We could take a while to get that to you or we could come back to it later.

Mr. Ted Chudleigh: Because I have an assistant beside me who is very adequate and very professional, I understand that it is in the bill.

Mr. Greg Sorbara: Right. Okay.

The Chair (Mr. Bas Balkissoon): I'll take the vote on page 2, government motion. All in favour? That carries.

We'll move to page 3, a government motion. Mr. Zimmer.

Mr. David Zimmer: I move that section 7 of the Election Act, as set out in section 5 of the bill, be amended by adding the following subsection:

“Six-month extension

“(4.1) Despite subsections (3) and (4), a returning officer's term of office is extended for six months if it would otherwise end during the period that,

“(a) in the case of a general election, begins when a writ is issued and ends three months after polling day;

“(b) in the case of a by-election, begins when a warrant for the issue of a writ for the election is received by the Chief Electoral Officer and ends three months after polling day.”

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. David Zimmer: The intent here is to prevent a returning officer's term from expiring during the election period. This, again, was based on the recommendation of Mr. Jack Siegel.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I'll take the vote. All in favour of the motion? That carries.

Shall section 5, as amended, carry? Carried.

We'll move to section 5.1, page 3.1, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that the bill be amended by adding the following section:

“5.1 The act is amended by adding the following section before the heading ‘Dates for Writs, Close of Nominations and Polling Day’:

“Professional activity day under Education Act

“9.0.1 Despite anything in the Education Act or in the regulations, policies and guidelines made under it, polling day in a general election held under subsection 9(2) shall be a professional activity day.”

This motion will make polling day a professional development day. It is a proactive motion. It recognizes the potential danger to children when voting occurs on a school day during school hours and takes a step to prevent harm from occurring. We believe that we should not wait for the tragedy before making this change. We

should make the change to prevent the possibility of a tragedy. This motion also provides a larger unused space for polling stations.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: The whole issue of requiring another professional development day, in effect to have a school holiday on election day, has been debated to a very great extent in considering this legislation. Although I understand the principle behind the Conservative motion, I should say that I'm a little bit surprised to see that party arguing for another professional development day; it's not in their character. But the fact is that we believe that our tradition of using schools can continue, notwithstanding that our kids will be at school on that day.

Mr. Ted Chudleigh: Another comment: I just want to reassure the member that your faith in our party is affirmed. We're not suggesting we have another development day. We're suggesting that one of the development days that they already have occur on an election day. Just so that you're not confused about the priorities that the PC government—the PC Party—have—the soon-to-be government.

Mr. Greg Sorbara: We don't need to go into that further.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: I just wanted to point that out to Mr. Sorbara as well. A very clear reading of this says that it "shall be a professional activity day." It is not another. It doesn't mandate anything. There are a number of professional development days, activity days, already in place, and I'm sure that, with proper consultation, as the government is often very proud of doing with the teachers, the school boards and the teachers' unions, an accommodation can be made.

1250

I am of two minds on this. On the one hand, I think it's wise for children to see the democratic process unfold before them in the schools, seeing people coming in and out of the school and voting, and recognizing the necessity of the electoral process on our democracy. On the other hand, I understand some of the safety concerns and some of the other concerns that have been raised around having the schools occupied, one of which was brought to bear on the disabilities issue when the gymnasium which was to have been used, in St. Joseph's academy, in the riding of Toronto Centre–Rosedale in its recent by-election—I believe it was volleyball, but it could have been a basketball game that was scheduled in that gymnasium, and alternate arrangements had to be made which were not accessible. So I do understand the difficulty, and I do understand the arguments on both sides.

I think this motion is a reasonable one if it can accommodate in the best interests of the voting public an opportunity to vote and to ensure at the same time that there are no glitches wherein persons with disabilities have to be carried down flights of stairs, as happened in Toronto Centre–Rosedale only a couple of months ago.

The Chair (Mr. Bas Balkissoon): I shall take the vote on motion 3.1.

Mr. Ted Chudleigh: Recorded vote, please.

Ayes

Chudleigh, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll move to page 3.2, an NDP motion: Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"5.1 The act is amended by adding the following section:

"Accessibility plan

"9.0.1(1) The Chief Election Officer shall make public, on a website on the Internet and by such other means as he or she considers advisable, by January 1 in each year in which a general election is held under clause 9(2)(b), a proposed plan for ensuring accessibility of the general election to be held in that year, including but not limited to the planned steps to,

"(a) ensure the accessibility of all polling places;

"(b) ensure the accessibility of ballots and of voting procedures, including the right to independently mark ballots and to verify the voter's choice;

"(c) ensure the accessibility of all returning offices; and

"(d) ensure the accessibility of any other services and facilities to be offered by or on behalf of the Chief Election Officer during the election.

"Consultation with public

"(2) The Chief Election Officer shall request comments from the public, including persons with disabilities, on the proposed accessibility plan and shall make public, no later than June 1 in the same year, a summary of the comments received and the additional steps, if any, it plans to add to its proposed accessibility plan."

By way of explanation, very briefly, this motion details specific ways in which the Chief Electoral Officer must ensure accessibility. Again, we listened to dozens upon dozens of speakers on the whole issue of accessibility. It seemed to be the primary focus and concern of the general public who came forward to make deputations. What this ensures is that the Chief Electoral Officer must set out a process, must invite comments, must ensure that as much as is humanly possible, every polling station, every polling place, and every practice put in place to allow citizens to vote will be accessible.

I think that this is the whole heart of the matter. This is one of the key recommendations we are putting forward to ensure that disabled Ontarians have equal access and equal rights to everyone else.

For that, I would ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I'll take the vote on motion 3.2.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll move to section 6, and I'll take the vote on section 6.

Shall section 6 carry? Carried.

We'll move to section 7, page 4R: government motion, Mr. Zimmer.

Mr. David Zimmer: I move that section 7 of the bill be struck out and the following substituted:

"7.(1) Subsection 13(1) of the act is amended by striking out 'and to section 14' and substituting 'and to sections 13.1 and 14'.

"(2) Subsection 13(3.3) of the act is amended by striking out at the beginning 'Nothing in subsection (3.1)' and substituting 'Nothing in subsection (3.1) or section 13.1'.

"(3) The French version of subsection 13(4) of the act is amended by striking out 'bureau de vote' at the end and substituting 'emplacement de vote'.

"(4) The French version of subsection 13(7) of the act is amended by striking out 'numéro de bureau de vote' at the end and substituting 'numéro de section de vote'."

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Prue?

Mr. Michael Prue: What is the intent of all of this?

Mr. David Zimmer: These are just consequential amendments that are required as a result of motion number 5.

Mr. Michael Prue: You're changing, in the French, the office of the vote to—I'm not sure of the word—"emplacement." Perhaps you could indicate why the office is being changed to "emplacement."

Mr. David Zimmer: As I said earlier, it's a consequential amendment that's required as a result of motion number 5. If you have a look at number 5, it'll become self-evident.

The Chair (Mr. Bas Balkissoon): If there are no further questions, I'll take the vote on motion 4R. All in favour of government motion 4R? Against? That motion carries.

The next motion is on page 4: government motion, Mr. Zimmer.

Interjection.

The Chair (Mr. Bas Balkissoon): Are you withdrawing number 4? It was on the order paper.

Mr. David Zimmer: Yes.

The Chair (Mr. Bas Balkissoon): Motion number 4 has been withdrawn.

I will take the vote on section 7, as amended.

Shall section 7, as amended, carry? Carried.

We'll move to section 7.1, on page 5. This is motion 5, a government motion.

Mr. David Zimmer: I move that the bill be amended by adding the following section:

"7.1. The act is amended by adding the following before the heading 'Hospitals, retirement homes, nursing homes and other institutions':

"Accessibility

"13.1(1) In establishing the locations of polling places under section 13, the returning officer shall ensure that each polling place is accessible to electors with disabilities.

"Application

"(2) Subsection (3) applies only with respect to general elections held under subsection 9(2).

"Posting for comment

"(3) The returning officer shall provide the following information to the Chief Electoral Officer, who shall publish it on a website on the Internet:

"1. The proposed locations of polling places.

"2. Details about steps that could be taken to ensure the accessibility of those locations.

"3. An invitation to members of the public to comment, within one month after the posting, on whether the proposed locations are sufficiently accessible.

"Time for posting

"(4) The posting described in subsection (3) shall take place at least six months before polling day."

The Chair (Mr. Bas Balkissoon): Questions or comments? Ms. Jones.

Ms. Sylvia Jones: I only have one question. I notice that this subsection would only apply with respect to general elections. Can you tell me why by-elections would not?

1300

Mr. Greg Sorbara: We expected the same ideas to apply to by-elections as well, the same objectives of accessibility, but by-elections happen on a different time frame, so you can't post the proposed polling places in a by-election six months before a by-election. The idea here is to post early to give the communities opportunities to examine these polling places and comment on whether they're accessible, but by-elections don't occur on a regular schedule, so just as a practical matter, this cannot apply.

Ms. Sylvia Jones: Would it not have been more appropriate, then, to separate out the still allowing one month for the public to comment? Because you could still do that with by-elections.

Mr. Greg Sorbara: I would just tell my colleague to refer to the by-election that was just held in—oh, help me out.

Mr. Mario Sergio: Leeds—Grenville?

Mr. Greg Sorbara: Leeds—Grenville. That by-election was held within a number of days of the

resignation of the member, as he moved on to the Senate. The fact is, you can't list a month before the by-election where the polling places will be. As a practical matter, this section cannot apply to a by-election because of the way in which by-elections arise.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: Yes, a number of questions.

You have also left out in this legislation the feasibility—I would suggest the feasibility and perhaps the probability—of referendum questions. I'm wondering, since we just went through a referendum question in the last election—this does not allow for that. It seems to me that a big and heavy issue like a referendum is not included. Can you explain why?

Mr. Greg Sorbara: Again, the thrust of this provision is based on the provisions that we have for fixed elections in Ontario. Now we have the capacity to know when the election is going to take place, and, six months before that election takes place, to identify polling locations so that the disabled community can examine them, comment and have them changed if their concerns about accessibility are not satisfied. I don't think the same thing applies—the same thing would obviously apply were there a referendum question in a general election, but if a referendum question arises, it may well be that that question is immediately put to the people. Again, the one-month and six-month provision just doesn't make sense.

Mr. Michael Prue: A number of other questions, if I could.

It does not appear to me from this that Elections Ontario is required to consider and act on the feedback it receives from persons with disabilities. There's nothing in here about how it responds to the feedback. It's all well and good to post it, but what do they do with it? There's nothing in the provision.

Mr. Greg Sorbara: I think, Michael, the reasonable person understands that the feedback would be responded to. That's all I'll say on that.

Mr. Michael Prue: I always thought I was a reasonable person. I'm just trying to make sure that the disability community is well served by this bill.

As well, it does not require Elections Ontario to give reasons if an accessibility objection is raised and Elections Ontario does not act on it. There's nothing here if someone comes forward and says, "I had to be carried down a set of stairs," and Elections Ontario decides not to act on it. Why is there no provision that this has to be answered?

The Chair (Mr. Bas Balkissoon): Okay—

Mr. Michael Prue: No, no, I have other ones.

The Chair (Mr. Bas Balkissoon): Go ahead.

Mr. Michael Prue: It also provides no right of appeal from any decision by Elections Ontario not to fix an accessibility problem that the voters with disabilities have identified. Can you explain to me why that has not been included?

Well, then, to speak to it, I think this is an extremely weak government motion. This is not getting to the heart

of the matter. It is allowing Elections Ontario to do what it has always done, and that is to go out and run the election, post some websites and do the minimum required in order to run a fair election, but it does not include people with disabilities.

Again, we sat through two solid days of people coming to make deputations. Literally almost every deputation that was made was people from the disabled community who had important things to say about being left out, about not being listened to and about not having an opportunity to have their concerns raised and acted upon. There is nothing in this legislation that does any of those three things. It does not require Elections Ontario to consider and act on the feedback, although that may be reasonable, as my learned friend says. It does not require Elections Ontario to give reasons if an accessibility objection is raised and not acted upon; and it provides no right of appeal.

I think this whole section is in huge need of reworking, unless it is the government intent, and I'll see by how they vote on it, to ignore the disabled community and simply say that their rights will not be enshrined in the legislation. Because I'm pretty strong on this, even though it's a government motion, I'm going to request a recorded vote so I can be recorded as voting against it.

The Chair (Mr. Bas Balkissoon): I'll take the vote on motion number—

Mr. Greg Sorbara: Mr. Chair—

The Chair (Mr. Bas Balkissoon): Oh, sorry. Comments, Mr. Sorbara.

Mr. Greg Sorbara: A very brief response to my colleague to say that this amendment, in conjunction with all the other amendments associated with dramatically changing the realities of the accessibility of provincial elections—this amendment has to be seen within that context. I have no plans on commenting on each of them as we go through them, but simply to say that the government amendments that we're considering today—most of them result from a very careful understanding of the needs of the disabled community and the submissions that were made, including this very amendment where the request was to have the posting of locations early enough so that the community could examine locations and be satisfied as to their accessibility. And I am very disappointed that my friend is not going to support this motion.

The Chair (Mr. Bas Balkissoon): I'll take the vote on motion number 5. A recorded vote has been requested.

Ayes

Chudleigh, Dickson, Jones, Mangat, Sergio, Sorbara, Zimmer.

Nays

Prue.

The Chair (Mr. Bas Balkissoon): Motion carried.

We'll move to section 8: 5.1, PC motion, Mr. Chudleigh.

Mr. Ted Chudleigh: I move that subsection 14(6) of the Election Act, as set out in section 8 of the bill, be struck out and the following substituted:

"Same

"(6) The following rules apply to the Chief Electoral Officer's direction:

"1. It may apply to one or more electoral districts.

"2. It may impose conditions on the use of mobile polls.

"3. It may impose different conditions with respect to different electoral districts.

"4. The Chief Electoral Officer shall publish the direction on a website on the Internet."

By way of explanation, this motion removes the examples for the reasons stated previously. It also requires the Chief Electoral Officer to publish the direction on the Internet to enhance the availability of information to all voters. This is valuable for the reasons stated previously and because it can provide a ground for electors to become more involved in the democratic process.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Prue.

Mr. Michael Prue: I just want some clarification on number 3, that, "It may impose different conditions with respect to different electoral districts." Is this to allow—for example, in far northern communities where polling booths may be few and far between—for alternate methods of voting? Is that what this intends to do? Because I don't want to see a different set of rules between adjacent municipalities in southern Ontario, because I think that will confuse electors in general and may cause some considerable difficulties on election day. So I'm just trying to determine whether or not this is to allow those very special voting requirements in isolated or northern communities. If that's what it's for, I would support it. If it's to say that the voting rules in my constituency and Mr. Chudleigh's constituency may be different, I will not. That's what I want to hear.

Mr. Ted Chudleigh: Yes. Amongst other things—

The Chair (Mr. Bas Balkissoon): Can you comment into the mike so we make sure we have it on Hansard?

Mr. Ted Chudleigh: Yes. Amongst other things, it's very difficult to take a brush and paint Ontario all the same tone and hue. This amendment would tend to allow the Chief Electoral Officer the discretion to make those differences that Mr. Prue suggests, and also other ones. And, yes, there might be conditions between your downtown Toronto riding and mine, which has some rural aspects to it and some suburban aspects to it. There may be some differences—if not now, perhaps in the future. That would be the purpose of this.

1310

The Chair (Mr. Bas Balkissoon): Questions, comments? There being none, we'll take the vote on motion 5.1, PC motion. All in favour? Against? That motion is lost.

Motion 5.2, PC motion: Mr. Chudleigh.

Mr. Ted Chudleigh: I move that subsection 14(8) of the Election Act, as set out in section 8 of the bill, be struck out and the following substituted:

"Same

"(8) The returning officer shall also take other reasonable steps that are likely to bring the notice to the attention of the electors in the electoral district, including without limitation the electors resident in each institution."

Again, the reason for this motion: Subsection 24(1.1) allows a person with restricted mobility to apply to have their polling station moved. This motion will support those electors who are not resident in an institution where there is a mobile polling station, but where they have been approved for transfer, to vote at that polling station.

The Chair (Mr. Bas Balkissoon): Questions, comments? There being none, we'll take the vote on motion 5.2, PC motion. All in favour? Against? That motion is lost.

We'll move to motion 5.2.1, NDP. Mr. Prue.

Mr. Michael Prue: I move that section 14 of the Election Act, as set out in section 8 of the bill, be amended by adding the following subsection:

"Same

"(8.1) The returning officer shall also ensure that the time period during which the mobile poll will be available at each institution is widely publicized in accessible formats and media that are likely to reach electors with disabilities."

I think this is self-evident. It is simply to allow that electors with disabilities have the full knowledge and capability of understanding that a mobile poll will be available, the time frames, the locations and others so that they can fully access the opportunity to vote.

It seems to me that if you leave that portion out, then there may not be people who can sign—and I note the presence of a signer here today. It may not allow for access to people in wheelchairs. It may not allow for access to those who are blind if they are not able to get on the Internet and find out. Where these mobile polls are available within the institution has to be publicized in every possible way.

I would ask for a recorded vote.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

Shall section 8 carry? Carried.

We'll move to section 9, motion 5.3, PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that section 9 of the bill be struck out and the following substituted:

“9. Section 15 of the act is amended by adding the following subsections:

“Temporary lodging place of post-secondary student, general election

“(1.3) Despite clause (1)(d), in a general election, a person who is temporarily living away from his or her residence in order to attend a prescribed university, college of applied arts and technology or other post-secondary institution is entitled to vote in the electoral district where he or she is temporarily living if,

“(a) it would be impossible or unreasonably difficult for the person to vote in the electoral district where he or she resides permanently, whether by special ballot, advance poll or ordinary poll; or

“(b) the person has a disability and voting in the electoral district where he or she is temporarily living would improve accessibility for him or her.

“Same

“(1.4) The following rules apply when a person wishes to vote under subsection (1.3):

“1. The person shall apply to the returning officer in the electoral district where he or she is temporarily living.

“2. If satisfied that the person is entitled to vote in that electoral district, the returning officer shall give the person a transfer certificate.

“3. The person may vote only in that electoral district and at the polling location identified in the transfer certificate.

“4. The person shall present the transfer certificate at the time of voting.

“Same

“(1.5) The Chief Electoral Officer shall establish a list of electors who have received transfer certificates and shall provide a copy of the list to every returning officer.

“Temporary lodging place of post-secondary student, by-election

“(1.6) Despite clause (1)(d), a person who is temporarily living away from his or her residence in order to attend a prescribed university, college of applied arts and technology or other post-secondary institution is entitled to vote in a by-election in the electoral district where he or she is temporarily living, if he or she has not, since the last general election, voted in a by-election in the electoral district where he or she resides permanently.

“Same

“(1.7) The following rules apply when a person wishes to vote under subsection (1.6):

“1. The person shall apply to the returning officer in the electoral district where he or she is temporarily living.

“2. If satisfied that the person is entitled to vote in that electoral district, the returning officer shall give the person a transfer certificate.

“3. The person may vote only in that electoral district and at the polling location identified in the transfer certificate.

“4. The person shall present the transfer certificate at the time of voting.”

By way of explanation, the current provision in the bill unfairly benefits a group of voters and fails to provide the requirements necessary for this change. The first set of subsections applies during a general election. They take into account the enhanced access provided to all electors with advance polls and special ballots but still provide eligible electors the opportunity to vote at a different polling station when they are at school. They also allow students with a disability to vote at a polling station at their school.

The second set of subsections applies during a by-election. They are similar to the previous six subsections but limit a student from voting in both a by-election in their permanent residence and in a by-election at their school between general elections. This is to ensure that one elector has only one vote.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Sorbara.

Mr. Greg Sorbara: I'm just having difficulty believing that the Conservative Party really wants to move this amendment.

The whole thrust of our discussions in the select committee and in consideration of this bill among a variety of stakeholders—political parties, the disability community, people who run elections, returning officers—was that post-secondary students are particularly disadvantaged, because perhaps for years they live in a kind of impermanent residence, whether it's a dormitory or a community setting. For them, it's particularly difficult to return to their place of residence—perhaps their parents' home—to vote.

Everyone agreed that in this bill we needed to change that and encourage students to vote where they are at the time of the election. That's what the bill does. That's the policy of the government. I'm surprised that it's not the policy of the Conservative Party. Passing this amendment would go against the general thrust of everything we've heard and make it more difficult for students to vote where they attend school.

The Chair (Mr. Bas Balkissoon): I'll take the vote on motion 5.3—you have a comment, Mr. Prue?

Mr. Michael Prue: It's not my motion, but I'm trying to be fair to Mr. Chudleigh and the Conservatives. What this does is only plausible when it would be impossible or unreasonably difficult for the person to vote in the electoral district.

Mr. Greg Sorbara: That's strong language.

Mr. Michael Prue: Well, no. This would be a very rare case. I would hazard a guess that more than 99% of all students would vote in the new place, as intended. This is just where it is extremely impossible—I can't even figure the circumstances. But to make the blanket statement that my friend Mr. Sorbara made, I don't think, is justifiable.

Mr. Greg Sorbara: What this amendment says is that where it's impossible or unreasonable to vote back home, not where it's impossible to vote where he or she permanently resides—that's my folks' home. That's what I find offensive about this amendment, and so my comments stand.

1320

I think if they actually thought about it, they would not be moving this kind of an amendment. The idea is to be expansive and to encourage students to get to class, to go home and do some work on the essay and to get out to vote, all within the confines of the electoral district where, for all practical purposes, they're living. That's the thrust of the select committee, that's the thrust of the current bill, and I hope we don't change it.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 5.3—

Mr. Ted Chudleigh: I wonder why you're not doing that for the disability community.

Mr. Greg Sorbara: I think if you look at our amendments, you will agree that we are.

Mr. Ted Chudleigh: I don't think you're going far enough.

The Chair (Mr. Bas Balkissoon): All in favour of motion 5.3? Against? That motion is lost.

Shall section 9 carry?

Mr. Greg Sorbara: As amended?

The Chair (Mr. Bas Balkissoon): It's not amended. Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall section 13 carry? Carried.

Shall section 14 carry? Carried.

Shall section 15 carry? Carried.

Shall section 16 carry? Carried.

Shall section 17 carry? Carried.

Shall section 18 carry? Carried.

Shall section 19 carry? Carried.

Shall section 20 carry? Carried.

We'll move to motion 5.3.1, NDP motion. Mr. Prue.

Mr. Michael Prue: I move that the act be amended by adding the following section:

"20.1 The act is amended by adding the following section:

"Candidate's duties re accessibility

"31.1 Every candidate and registered party shall,

"(a) select locations for campaign offices that are accessible to persons with disabilities;

"(b) ensure that campaign websites are published in a format that complies with the W3C WCAG 2.0 Level AA Standard;

"(c) make available as soon as reasonably possible, on request, all campaign literature in accessible formats, including large print, Braille and accessible electronic formats; and

"(d) ensure that any television advertisements for the purposes of the campaign include captioning for persons with hearing loss."

I think it's self-explanatory, but by way of explanation, this is something that has been requested. I know that it may be onerous to some candidates—I acknowledge that it may be expensive and onerous—but we have to start. We have to make sure that campaign offices are accessible so that persons who want to come and work in

a campaign have the opportunity to do so. We need to make sure that the website is up to standard so that people who have disabilities can use the format and can access the websites, because not all are accessible. We need to make available upon request—not just available, but upon request—campaign literature in accessible formats: large print—that can be done on an ordinary photocopy machine just by increasing it; Braille, which is a little more expensive, but can be done; and accessible electronic formats. And finally, we need to ensure that if candidates have television advertisements, they be made accessible, perhaps by the use of the signer in the corner or by having teletype go across the bottom. I don't think candidates would generally have that, but the parties do spend millions of dollars on advertising during the election process and quite clearly could have a signer and some electronic copy go across the bottom.

I know it's expensive, but it's up to us to set the standard and to tell candidates what they should be doing in order to reach the broadest range of people. It's not good enough to say that you can reach 95% or 98% of the people by putting out your simple brochure. That disenfranchises and is unfair to those who cannot access it.

Therefore, I would ask that my colleagues vote for this and would ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Sorbara.

Mr. Greg Sorbara: I completely understand the nature of the NDP's motion and Mr. Prue's support of it. I simply want to put on the record that, from the beginning of the select committee through all of our discussions, there was a sense that this review of the Election Act and the Election Finances Act was not going to delve into this completely new territory of regulating candidates. The only place where these acts regulate candidates is in expenditures.

It's an interesting area to investigate in terms of public policy, but to begin at this stage to start to develop regulations affecting what kind of brochures—I don't call it literature. It's not literature; it's propaganda. To regulate propaganda and brochures is just beyond the scope of the work that we started quite some time ago. While I would support, at some point, an interesting public policy discussion on it, I don't think it's appropriate at this late date to say that we're going to start to do this by way of this amendment. We will be recording the fact that we are not supporting this motion.

The Chair (Mr. Bas Balkissoon): Questions or comments? There being none, I'll take the vote on motion 5.3.1. A recorded vote.

Ayes

Prue.

Nays

Chudleigh, Dickson, Jones, Mangat, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll go to page 5.3.2: NDP motion, Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"20.2 The act is amended by adding the following section:

"Accessibility of Candidates' Debates

"Accessibility, candidates' debates

"31.2(1) Any candidate who participates in a debate for the purposes of an election shall ensure that the debate is held at a location that is accessible to persons with disabilities and that measures are taken to ensure that persons with disabilities are able to fully participate in the debate by asking questions of the candidates.

"Complaints

"(2) A person who is of the opinion that subsection (1) has been contravened may lodge a complaint to the Chief Electoral Officer in accordance with the regulations."

I do believe this is self-explanatory. It goes beyond just having the authority to go in and cast a vote in a jurisdiction. It goes to the very heart of the matter: that people have the right to be informed. One of the ways in which they can get information, and one of the chief ways that used to be much more common than it is today, is to attend an all-candidates' meeting and to have the opportunity to pose questions and listen to or participate in the debate. This is requiring of candidates that they hold the debates in such a place and such a way that everyone can participate.

I do acknowledge, and it is well known, that many of the debates are not organized by the candidates. They are organized by ratepayers' groups, home and school associations, interested parties, community groups and the like. But this would say and be the authority of candidates to simply decline an opportunity to attend where those groups determine that they are not willing to accommodate the disabled community.

Therefore, I am seeking that this motion pass and would ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Sorbara.

Mr. Greg Sorbara: My comments on the last amendment apply to this amendment as well. This would be taking the act into territory that, frankly, it was not designed to cover.

I'm very sympathetic with the need for candidates who participate in election campaigns to make intelligent decisions as to whether or not they choose to participate in a debate if a location is inaccessible or there are parts of the electing community who object to the location, but I think that's a political decision rather than one that ought to be included in this act.

1330

The Chair (Mr. Bas Balkissoon): Any further questions or comments? There being none, I'll take the vote on motion 5.3.2. A recorded vote has been requested.

Ayes

Prue.

Nays

Chudleigh, Dickson, Jones, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We will now move to 5.3.3, an NDP motion. Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"20.3 The Act is amended by adding the following section:

"Large print on ballots

"34.1 All ballots shall be printed or displayed in large print in accordance with the regulations in order to enable as many voters with low vision as possible to mark the ballots independently."

Again, I think this is self-evident. If the names were in this type right here, I could not read them without these glasses on my face. I want to say that perhaps my colleagues over there—take your glasses off and see. Now, I know they're in larger print than this, but other people have worse vision than me. Surely it is an easy thing that can be done to put the names in 26-, 28- or 30-point, so that people can read them, mark the ballot and know with confidence, if they've forgotten their glasses, if they can't use glasses or if they are partially sighted, that they've done the right thing. Again, I'm asking for a recorded vote.

The Chair (Mr. Bas Balkissoon): Questions and comments? Mr. Sorbara.

Mr. Greg Sorbara: Just to inform my friend in the committee and the public: The dramatic changes that will come to the Election Act with the bill and the amendments that are being considered here today change the experience significantly, particularly for the disabled community, in voting with special ballots. This specific provision will be dealt with, with the broad discretion given to the Chief Electoral Officer to ensure that every step is taken to ensure accessible elections, including special ballots and the use of very expensive voting machines, so that we have an ability to provide a secret ballot to every elector in Ontario. I simply don't think we need to put this in specific legislation.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: It's simply a comment, but my concern is that by leaving the discretion in place, you are in fact going to encourage a discrepancy between ridings across the province.

Mr. Greg Sorbara: I don't think so, because the Chief Electoral Officer will apply standards across the province. Remember, under this bill and the new act, there will be a reporting requirement and an ongoing consultation process at a level that has never existed before between Elections Ontario and the communities

that have been kept from polling places. I'm sure this is just one of those things that will be dealt with, and then dealt with broadly, with new policies that affect the entire province.

The Chair (Mr. Bas Balkissoon): Mr. Chudleigh?

Mr. Ted Chudleigh: No, that's fine.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: I grant that there will be other possibilities. But the majority of people who have difficulty seeing—not all of them, but the majority of them—have some sight capability. For them to have to access special measures, when something as easy as this can take place—it would be easy for me, it would be easy for you and it wouldn't make a difference to anyone sitting around this table if it was in a larger, more readable font. I don't see the difficulty. People wouldn't have to go to the extraordinary extent of having to declare themselves to be disabled, of having to go and vote at a special machine. If they had some sight capability and were able to go to their own poll, line up with their own neighbours, mark their own ballot—do it in a manner consistent with everyone else—surely that is something that can be accommodated.

This is only asking for larger print; that's all this is doing. Personally, I think we do the best service to the disabled community when we can accommodate them in a way that is consistent with every other person. That's what this is asking: that they be accommodated in the same way as every other person. I don't see the difficulty around this at all. Again, I ask for a recorded vote, because this is one of the simplest things we can possibly do: make the ballot readable by the overwhelming majority of people who are sighted and those who have partial sight.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 5.3.3. A recorded vote has been requested.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

Ms. Sylvia Jones: Subsection 22.5 of—

The Chair (Mr. Bas Balkissoon): Just one second; let me call it.

Ms. Sylvia Jones: Sorry. My apologies.

The Chair (Mr. Bas Balkissoon): I still have to take the vote on section 21.

Shall section 21 carry? Carried.

We'll now move to section 22. Motion 5.4: PC motion, Ms. Jones.

Ms. Sylvia Jones: I move that section 22 of the bill be amended by adding the following subsection:

“(5) Section 44 of the act is amended by adding the following subsection:

“Same

“(8) The notice shall also be published on a website on the Internet.”

Again, this is yet another motion to allow more people access to the information and publish it on the Internet.

The Chair (Mr. Bas Balkissoon): Questions, comments? Mr. Zimmer.

Mr. David Zimmer: We'll be supporting this motion. It adds to the intent of the bill.

The Chair (Mr. Bas Balkissoon): Shall we take the vote on motion 5.4? All in favour? The motion is carried.

Motion 5.4.1: NDP motion, Mr. Prue.

Mr. Michael Prue: I move that section 22 of the bill be amended by adding the following subsection:

“(5) Section 44 of the act is amended by adding the following subsection:

“Same

“(8) The Chief Electoral Officer and the returning officer shall also ensure that the time period during which an advance poll will be open is widely publicized in accessible formats and media that are likely to reach electors with disabilities.”

Again, I think this is self-evident. It's simply saying that they have a responsibility to ensure that people understand in the best possible way that people with disabilities will be accommodated to vote. I ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Questions, comments? Mr. Sorbara.

Mr. Greg Sorbara: We certainly support the intention of this motion. Just to note that the thrust and policy and specifics are dealt with in government motion number 12, which we'll be addressing at some time, and so we'll keep our support for that and not be supporting this motion.

The Chair (Mr. Bas Balkissoon): We'll take a vote on motion 5.4.1. A recorded vote was requested.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion loses. Shall section 22, as amended, carry? Carried.

We'll move to section 23. Motion 5.4.2, Mr. Prue.

Mr. Michael Prue: I move that subsection 44.1(1) of the Election Act, as set out in subsection 23(1) of the bill, be struck out and the following substituted:

“Accessible voting equipment, etc.

“(1) At an election, the Chief Electoral Officer may direct that accessible voting equipment and related vote counting equipment be used in accordance with this

section and shall give that direction for an election that is no later than the general election held in 2015.

"Same

"(1.1) In giving a direction under subsection (1), the Chief Electoral Officer shall comply with the following rules:

"1. The direction shall apply to all elections held in or after 2015.

"2. The direction that accessible voting equipment be used shall not direct the use of equipment that includes automated vote counting equipment unless it would otherwise be impossible to count votes cast using the voting equipment.

"3. The direction shall require that,

"i. the option of using accessible voting equipment is made available at every polling place, or

"ii. options that are comparable to accessible voting equipment are made available for all electors with disabilities at every polling place, which options allow for voters to vote independently and privately and to verify their choices and which may include voting by means of the telephone or the Internet.

"4. The direction shall not direct that only paper ballots may be used if it is possible to produce a verifiable electronic record of votes cast that does not identify voters."

1340

This is a motion, we believe, that will assist the disabled community and will also ensure that they are treated like every other elector. In our view, it strengthens the current subsection 23(1) in that it allows for much the same that has been set out, but includes, in all ways, machines that will accommodate the disabled community.

I would ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: I'm surprised that my friend is proposing a motion that provides for accessible equipment of this sort only in the 2015 general election. Our thrust has been that we are preparing now, or the Chief Electoral Officer is preparing now, to have available this sort of machinery for the election in 2011. Most of the thrust here is dealt with in other government motions, which I hope the committee will support.

I do, however, point out that, once again, the proposal is to have these sorts of machines in—I'm quoting number 3 in subsection (1.1)—"every polling place" in Ontario. You do the math: about 15,000 polling places at about \$15,000 per machine. By my math, that's, I think, \$225 million in new equipment. I don't think really the NDP is arguing for expenditures of those sorts when there are a variety of other methods to ensure absolute equivalent accessibility from this entire community without those sorts of expenditures.

The Chair (Mr. Bas Balkissoon): Mr. Chudleigh.

Mr. Ted Chudleigh: I'd just comment that the \$15,000 per machine—that certainly is a Cadillac machine. There are machines that will do exactly the

same job that are in use in other countries currently that are less than half that price—well less; maybe a third.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: If I can reiterate what my colleague from the Conservative Party just said. It says, "Options allow for voters to vote independently and privately and to verify their choices and which may include voting by means of the telephone or the Internet."

We definitely understand the \$225-million cost. The machine will be necessary in some locations where it is not feasible, not practicable. There is then the option of voting by means of the telephone or the Internet.

As was correctly pointed out in this very room by speaker after speaker, if you can bank by telephone, if you can have all of your private, confidential information about your credit card, your banking, your legal matters and everything else safeguarded by telephone, then you can vote the same way, at little or no cost to the government of Ontario.

Mr. Greg Sorbara: I don't dispute what my friend says about the possibility in the future of using electronic communications. I'd just point out once again that his motion says that, but it also says accessible machines "at every polling place." I know—at least, I think I know—that he's really not advocating those sorts of expenditures, and we won't be supporting the motion.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 5.4.2. All in favour? Against?

Mr. Michael Prue: I did request a recorded vote.

The Chair (Mr. Bas Balkissoon): Sorry, I didn't hear you. A recorded vote has been requested.

Ayes

Prue.

Nays

Chudleigh, Dickson, Jones, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll move to 5.4.3. Mr. Prue.

Mr. Michael Prue: 1 move that section 44.1 of the Election Act, as set out in subsection 23(1) of the bill, be amended by adding the following subsection:

"Consultation

"(1.2) The Chief Electoral Officer shall consult with persons with disabilities to determine their needs before making a determination of which accessible voting equipment and related vote counting equipment to use and shall make public the proposal to use the equipment no later than the prescribed number of days before polling day."

By way of explanation, this motion sets out consultation requirements regarding the purchase of new voting equipment, and also requires that all information be made public. This will perhaps assuage some of the fears of my friend Mr. Sorbara in terms of costs.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: Just to say that we believe that the consultation provisions that are contained in the bill and our amendments to the bill will deal comprehensively with the theme behind this motion from my friend Mr. Prue.

The Chair (Mr. Bas Balkissoon): Questions,? Comments? There being none—

Mr. Michael Prue: I would ask for a recorded vote.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll now move to motion number 6, a government motion. Mr. Zimmer.

Mr. David Zimmer: I move that section 44.1 of the Election Act, as set out in subsection 23(1) of the bill, be struck out and the following substituted:

"Accessible voting equipment, etc.

"44.1(1) At an election, accessible voting equipment and related vote counting equipment shall be made available in accordance with this section and in accordance with the Chief Electoral Officer's direction under subsection (2).

"Direction and notice

"(2) Not later than 21 days before polling day, the Chief Electoral Officer shall,

"(a) make a direction describing the accessible voting equipment and related vote counting equipment in detail and referring to the provisions of this act that will not be complied with;

"(b) provide copies of the direction to the leader of each registered party and to every candidate who has been nominated; and

"(c) publish the direction on a website on the Internet.

"Returning offices

"(3) The accessible voting equipment and related vote counting equipment shall be made available in returning offices during the period that begins on the first day of advance polls and ends on the day before polling day, as follows:

"1. The equipment shall be made available during advance polls that are held in returning offices.

"General election

"(4) At a general election, the accessible voting equipment and related vote counting equipment shall be made available in every electoral district.

"Condition

"(5) Despite subsection (1), accessible voting equipment and related vote counting equipment shall not be made available unless an entity that the Chief Elec-

toral Officer considers to be an established independent authority on the subject of voting equipment and vote counting equipment has certified that the equipment meets acceptable security and integrity standards.

"Rules

"(6) The use of accessible voting equipment and related vote counting equipment under subsection (1) is subject to the following rules:

"1. The equipment must allow the elector to vote privately and independently.

"2. The equipment must not be part of or connected to an electronic network.

"3. The equipment must be tested,

"i. before the first elector uses the equipment to vote, and

"ii. after the last elector uses the equipment to vote.

"4. For the purpose of paragraph 3, testing includes, without limitation, logic and accuracy testing.

"5. Voting by means of the equipment must not begin before the test conducted under subparagraph 3 i has been successfully completed, even if advance polls have already begun.

"6. The information made available to the elector through the equipment before voting must comply with subsections 34(2) and (3), with necessary modifications.

"7. The equipment must create a paper ballot that records the vote cast, is retained in the same way as ordinary ballots and shows the name of the electoral district, the date of polling and the name of the printer.

"8. The equipment must allow the elector to verify his or her vote, without the assistance of another person, before the paper ballot is printed.

"9. The equipment or the process used must allow the elector to verify his or her vote after the paper ballot is printed but before casting his or her vote.

1350

"10. The equipment must have a feature which, if a ballot is unreadable or unmarked, brings the fact to the elector's attention. When this happens, the elector must be given another ballot or another opportunity to mark the first ballot.

"Counting

"(7) Votes that are cast at a returning office by means of accessible voting equipment shall be counted by the related vote counting equipment, subject to subsection (8).

"Inconsistent tests

"(8) If the tests conducted under subparagraphs 3 i and ii of subsection (6) are inconsistent, the returning officer shall immediately advise the Chief Electoral Officer, who may direct the returning officer to have the vote conducted manually.

"Report

"(9) The Chief Electoral Officer shall include a report on the use of accessible voting equipment and related vote counting equipment at an election,

"(a) in any report that the Chief Electoral Officer makes with respect to that election; or

“(b) in the next annual report made under section 114.3.

“Definition

“(10) In this section,

“‘accessible voting equipment’ means voting equipment that is accessible to persons with disabilities.”

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Chudleigh.

Mr. Ted Chudleigh: The PC Party supports the change to the subsection, but this motion fails to address the concerns expressed to this committee. It not only prevents more cost-efficient accessible voting equipment, but could create barriers to equipment that allows more eligible voters to vote privately and independently. We think our motion, which is to follow, takes that into consideration.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara.

Mr. Greg Sorbara: I think what you can draw from this motion and this amendment is that all three parties in this room are on the very same page on this whole issue. The difference here is in wanting to mandate the requirement for accessibility and the use of technologies to achieve that goal. We have fulfilled our responsibilities in government to ensure not only that the requirement is there, but that there is the security of a secure vote.

You’ll remember, when the Chief Electoral Officer was in front of this committee, he talked about the principle not only of accessibility, but of making sure that the result of the vote is reliable and can be certified. The reason why this amendment is so long is so that the mandate to the Chief Electoral Officer is to ensure that he uses the equipment and that the equipment he uses satisfies the kind of security that voters without disabilities have in the voting process.

I hope all of my colleagues will support this.

The Chair (Mr. Bas Balkissoon): We’ll take the vote on motion 6. All in favour? Against? The motion carries.

We’ll move to motion 6.0.1: Mr. Prue.

Mr. Michael Prue: I move that subsection 44.1(2) of the Election Act, as set out in subsection 23(1) of the bill, be amended by adding at the end “and shall ensure that the accessible voting equipment will enable a person with vision loss, motor limitations or any other disability that prevents him or her from using a paper ballot to vote independently in privacy and to verify his or her choice”.

I think that’s quite self-evident. That’s what we’re asking for. I’d ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: I think my comments on the amendment that we just approved cover this matter comprehensively, both with the direction to the Chief Electoral Officer and the authority to test out in all cases of all disabilities and for all forms of accessibility requirements.

The Chair (Mr. Bas Balkissoon): Further questions? There being none, we’ll take the vote on 6.0.1. A recorded vote has been requested.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Sergio, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That vote is lost. Motion 6.1: PC motion, Mr. Chudleigh.

Mr. Ted Chudleigh: I move that section 44.1 of the act, as set out in subsection 23(1) of the bill, be amended by adding the following subsection:

“Consultation

“(2.1) Before making a direction under subsection (1), the Chief Electoral Officer shall consult with the leader of each registered party and with electors about the subject matter of the direction, including without limitation,

“(a) the location and availability of accessible voting equipment and related vote counting equipment; and

“(b) compliance with the accessibility standards referred to in subsection (5.1).”

The reason for the motion: We heard a number of people explain the difficulties they continue to have at election time and their ongoing concerns. This motion will provide voters, voters with a disability and any other voters who may have valuable insights relevant to a direction made under this section the opportunity to voice their concerns and suggestions. Ensuring that consultation occurs with the people of Ontario not only strengthens this legislation but it strengthens Ontario’s democracy.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: Not to argue against the principle of the motion, but just for the purpose of consistency, the amendments that the government will be bringing forward in this area do not lock very well with this amendment, so we won’t be supporting it, not because we don’t agree with the principle but because we need consistency throughout the bill.

The Chair (Mr. Bas Balkissoon): We’ll take the vote on 6.1. All in favour? Against? That motion is lost.

We’ll move to 6.2, Ms. Jones.

Ms. Sylvia Jones: I move that section 44.1 of the act, as set out in subsection 23(1) of the bill, be amended by adding the following subsection:

“Consultation

“(2.1) Before making a direction under subsection (1), the Chief Electoral Officer shall consult with the leader of each registered party and with electors about the subject matter of the direction, including without limitation the location and availability of accessible voting equipment and related vote counting equipment.”

It follows the previous motion.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: The same position: We support the position, but we think we covered this in other amendments, and we want the bill to be consistent.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 6.2. All in favour? Against? The motion is lost.

We'll go to 6.3, PC motion again.

Mr. Ted Chudleigh: I move that section 44.1 of the act, as set out in subsection 23(1) of the bill, be amended by adding the following subsection:

"Timing of directions

"(2.2) The first direction"—

The Chair (Mr. Bas Balkissoon): Oh, sorry. Just hold on one sec. You have a revised version; we just want to make sure you're reading the revised version of 6.3.

Mr. Ted Chudleigh: I believe I am.

The Chair (Mr. Bas Balkissoon): Okay. Give me one second to distribute it. The others don't have it.

Mr. Ted Chudleigh: It was a secret.

The Chair (Mr. Bas Balkissoon): Okay, now you can introduce—

Interjection.

Mr. Ted Chudleigh: Sorry about that.

I move that section 44.1 of the act, as set out in subsection 23(1) of the bill, be amended by adding the following subsection:

"Timing of directions

"(2.2) The first direction under subsection (1) shall be made in time for the general election of October, 2011, and thereafter a direction shall be made for every general election and by-election."

The Chair (Mr. Bas Balkissoon): Further comments? None. Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: We want to congratulate the Conservative Party for seeing the light. You see, their original motion would have this done after the election in 2011, and their amendment, wisely thought through, moves the date forward so that it would be in time for the general election. We certainly support that policy. We are determined to get on with accessibility and all that has to be done in that area. But, once again, we have a package of government amendments that deal with this matter comprehensively, so we see no need for this motion. In fact, it would conflict with some of the other technical matters in the motions that we're bringing forward, so we're not going to support it, although the thrust and the new-found urgency of the Conservative Party is welcome.

Mr. Ted Chudleigh: That's why we had it a secret. We didn't want to take that criticism from the government.

The Chair (Mr. Bas Balkissoon): We'll take the vote on revised 6.3. All in favour? Against? That motion is lost.

We also have a new motion 6.3.1.

Interjection.

The Chair (Mr. Bas Balkissoon): Mr. Chudleigh, I need you to officially withdraw old 6.3.

Mr. Ted Chudleigh: Yes.

The Chair (Mr. Bas Balkissoon): Old 6.3 has been withdrawn. We'll now move to the new 6.3.1, and I'll distribute it first.

Mr. David Zimmer: Chair, we've been at it for two hours. Could we have a five-minute break?

The Chair (Mr. Bas Balkissoon): A five-minute break has been requested by the government side. Agreed? All agreed. We'll take a five-minute break.

Mr. David Zimmer: A health break.

The committee recessed from 1400 to 1410.

The Chair (Mr. Bas Balkissoon): We'll call the meeting to order and carry on. We were at motion 6.3.1. Has everybody received a copy of the new motion just introduced?

The Clerk of the Committee (Ms. Tonia Grannum): There's no number on it.

The Chair (Mr. Bas Balkissoon): Okay. It's a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that section 44.1 of the Election Act, as set out in subsection 23(1) of the bill, be amended by adding the following subsections:

"Overriding rules

"(2.3) When the Chief Electoral Officer makes a direction under subsection (1), the following rules apply despite anything else in this section and despite anything else in the direction:

"1. Related vote counting equipment is required only if it is not possible to count the votes cast,

"i. manually, or

"ii. by using the accessible voting equipment itself.

"2. The accessible voting equipment need not produce a paper ballot if a verifiable electronic record of the vote cast can be produced without identifying the elector."

This is put in because the—

Mr. David Zimmer: Excuse me. Just on a point of order: I'm confused. Where does this one fit in? Is this a new one?

The Chair (Mr. Bas Balkissoon): Just before 6.4.

Mr. Mario Sergio: So this is a new motion.

The Chair (Mr. Bas Balkissoon): It's a new motion, a new amendment introduced by the PC Party.

Mr. David Zimmer: This precedes 6.4?

The Chair (Mr. Bas Balkissoon): Yes, that's correct.

Mr. David Zimmer: All right. Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Chudleigh, your comments.

Mr. Ted Chudleigh: Just a comment that the act seems to require that a vote counting machine be available. If the voting equipment is producing a ballot, the ballot can be counted along with all the other ballots, and a vote counting machine is not necessary. If the qualifications of this amendment were met, it would be redundant to have a vote counting machine.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: Again, we understand the principle behind this. Throughout the consideration of this act, we've stuck to the notion that in Ontario we use a

ballot that a voter marks in one way or another, subject to changes that we're making here for other methods of accessibility. While I understand why, at this late date, our friends from the Conservative Party are bringing this forward, we're not prepared to accept it.

The Chair (Mr. Bas Balkissoon): Further questions or comments?

Mr. Michael Prue: I will always accept a late idea if it's a good one.

The Chair (Mr. Bas Balkissoon): I'll take the vote on motion 6.3.1—

Mr. Greg Sorbara: We do not differ there, my friend.

The Chair (Mr. Bas Balkissoon): All in favour? Against? That motion is lost.

We'll move to motion 6.4, a PC motion. Mr. Chudleigh.

Ms. Sylvia Jones: I move that subsection—

The Chair (Mr. Bas Balkissoon): Ms. Jones. Go ahead. Sorry. You guys get me confused every once in a while.

Ms. Sylvia Jones: I know. I apologize.

I move that subsection 44.1(3) of the act, as set out in subsection 23(1) of the bill, be amended by striking out “and” at the end of clause (a) and by adding the following clause:

“(a.1) provide copies of the direction to every returning officer; and”

This simply is an amendment that would ensure that all returning officers get the same information.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: Just to say that this is covered in the package of government amendments, which I hope my friend will support, notwithstanding that we wouldn't do this because it would create a clash with other sections.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 6.4. All in favour? Against? The motion is lost.

We'll move to 6.4.1, Mr. Prue.

Mr. Michael Prue: I move that subsection 44.1(3) of the Election Act, as set out in subsection 23(1) of the bill, be amended by striking out “and” at the end of clause (a) and adding the following clause:

“(a.1) make public by means of websites on the Internet and other media the availability and location of accessible voting equipment; and”

I think this is self-explanatory; it just needs to be publicized.

The Chair (Mr. Bas Balkissoon): Questions and comments? Mr. Sorbara.

Mr. Greg Sorbara: Again, support in principle, but this very subject is dealt with in the government amendments, which I hope my friend will support.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 6.4.1. All in favour? Against? That motion does not carry.

We'll move to 6.5, a PC motion.

Mr. Ted Chudleigh: I move that section 44.1 of the act, as set out in subsection 23(1) of the bill, be amended by adding the following subsections:

“Accessibility standards

“(5.1) When the Chief Electoral Officer has made a direction under subsection (1),

“(a) every returning officer shall ensure that the electoral officers receive instruction, before the first advance poll, with respect to the accessible voting equipment and related vote counting equipment;

“(b) every returning office shall meet the prescribed accessibility standards or the standards required under the Accessibility for Ontarians with Disabilities Act, 2005, whichever is higher; and

“(c) every returning officer shall take all reasonable steps to ensure that every polling place in his or her electoral district meets the prescribed accessibility standards or the standards required under the Accessibility for Ontarians with Disabilities Act, 2005, whichever is higher.

“Same

“(5.2) If a returning office or polling place does not meet the accessibility standards referred to in subsection (5.1),

“(a) the Chief Electoral Officer shall publish notice of the matter on a website on the Internet, before the first day of advance polls; and

“(b) the returning officer shall include an explanation in the report prepared under subsection 55.1(1).”

This committee has heard a lot about how accessibility needs to be improved during Ontario's elections and the barriers that continue to exist. This subsection provides an actionable answer to those concerns. It recognizes that if we're going to have vote counting equipment, election staff should know how the equipment works; that a building should be accessible for those who wish to use vote counting equipment; and that reasonable steps should be taken to make voting locations accessible for all voters, not just certain groups of voters. Subsections (5.1) and (5.2) account for the geographic and demographic diversity across Ontario without minimizing the importance of meeting accessibility standards.

The Chair (Mr. Bas Balkissoon): Questions and comments?

There being none, we'll take the vote on 6.5. All in favour? Against? That motion does not carry.

We'll move to 6.6, a PC motion.

Ms. Sylvia Jones: I move that subsection 44.1(6) of the act, as set out in subsection 23(1) of the bill, be struck out.

This subsection is too broad, and the important reference to security and integrity standards can be worked into subsection (7). There's no definition of “established independent authority,” which in fact makes the strong language weak. There is no certification standard, making this procedure potentially meaningless. Finally, the important security and integrity standards are not provided for by regulation or in the legislation.

The Chair (Mr. Bas Balkissoon): Questions and comments? Mr. Sorbara.

Mr. Greg Sorbara: Mr. Chairman, this is where we disagree with our friends opposite. We think that ensuring the integrity and security that are contained in this section is extremely important. We think that the bill, in its totality, deals with that. Obviously there are areas where there might be some discretion, but again, integrity and security of voting is something that has been a hallmark of Ontario elections, and where we can reinforce that in revisions to the Election Act, we think it's important to do. So we would not want to see this section struck.

1420

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 6.6. All in favour? Against? The motion does not carry.

We'll move to motion 6.7, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that paragraph 2 of subsection 44.1(7) of the act, as set out in subsection 23(1) of the bill, be struck out and the following substituted:

"2. The equipment may be part of or connected to an electronic network and may use telephone or other technologies."

The reason for this motion is that the motion will not require the use of accessible voting equipment which uses an electronic network or telephone technology but allows for it. We live in a time of rapidly advancing technology, and the current provisions are archaic. Telephone technologies, for example, have been used in the United States for less than the \$11,000 cost discussed—I heard \$15,000 discussed today—at the select committee, and they provide electors with a disability the opportunity to vote independently. I do not understand why this paragraph was included, and the Premier has made comments supporting our motion. I would urge all members to support this motion since the Premier himself has told us that technology is important in moving down this road.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: This is a very difficult one. It's difficult because, going back to the initiation of the select committee and the government's views on these matters, we had agreed that we were going to be looking at some housekeeping and some modernization of the Election Act and the Election Finances Act. As we began that, given our commitment and the commitment of each of the other parties to address accessibility, that became a very important theme in the work that we're doing, and I'm proud of the results that we're going to be able to deliver on third reading.

The point that my friend brings up really asks the question: Should we move towards Internet and telephone voting in Ontario? I just don't think that we can say—and I think under the charter we might not be able to say, "We will move in that direction for certain segments of the population, that part of the community that

has issues with respect to accessibility." I think if you're going down that road, you've got to go down that road. I think the fact is that we decided early on, and it remains the government policy, that as a general matter, we are not moving from a system of voting with polling places, paper ballots and attending at a polling place, subject to what we've changed with special ballots and mobile polls and that sort of stuff, that we are not going to move towards electronic voting.

It may be, down the road, that some future government says, "You know what? This business of actually going to a polling place—that's pretty outdated. We could all sit at our computers," or "Excuse me, I'm just going to vote on my BlackBerry and cast my vote for a federal election that's going on today." Maybe we're going to do that, but we just decided at the outset that we are not going to, for now, go down that road. I believe that if we're not going down that road, we can't go down that road, under the charter, for the community that has accessibility issues: the disabled community.

However, all of that being said, we are going to create authority to look at alternative technologies, and within that context, an examination of that may take place in the future. The fact, however, is, and let's be frank, if we were going to actually move down that road, this bill would have to come back before the Legislature again. That may be welcome.

For me—maybe I'm just a traditionalist—I like the idea that we do not vote at home on the Internet, that we actually have to go out and cast a ballot. Maybe I'm archaic, but I believe that we should stick with this tradition, at least within this review of the act and the work that we've done.

The Chair (Mr. Bas Balkissoon): Mr. Chudleigh.

Mr. Ted Chudleigh: Methinks the member doth protest too much, although he did mention that he is personally, perhaps, a little archaic.

The review of the Election Act comes up fairly rarely, as the member knows. To specifically ban something or keep something out that is obviously going to become part of our lifestyle in the future—perhaps not today, but it's going to be there in the future—to specifically ban it in this act I think is a grave mistake. I think that having it available, even if not used—your archaic comment is one I recognize, because I'm fairly archaic myself; I suspect that you and I aren't as comfortable on the computer as some of the people in this room. It's too bad to ban it before we might have—three, four, five years from now, the act won't be opened up again and that won't be available to us, even though it may provide tremendous advantages to the disabled community and to other Ontarians living in very remote areas, if you think of the Timiskaming riding, which I believe is bigger than New Brunswick, and the people living there. It could provide some real benefits to those kinds of areas.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: I don't know if the fear is the fear of the future here or the hearkening back to old days. I often thought that was associated more with Conserva-

tives than with Liberals. I listened to Mr. Sorbara and I don't understand the fear of the future. Certainly, the disabled community understands the huge strides that have been made. I mean, there was a time that it was inconceivable that you would have motorized means of transport; people were pushing wheelchairs or others were, more often, pushing them. Today, you see a complete range that allows mobility. You see cochlear implants for the deaf and hard-of-hearing, which would have been impossible a generation ago.

The same thing is happening here. There are other alternatives that need to be explored. I don't understand why we are putting the blinkers on. I don't understand why we're not allowing the legislation to foresee the kinds of changes that can be made, the low-cost kinds of changes that can be made to assist literally everyone who has a disability and/or those who live in remote communities or don't have ordinary access. I, for one, when I listen to the deponents, understand that we don't always have to do things in a traditional way. We don't have to have a traditional voting machine at \$15,000. We can have and must have alternatives that are being made almost on a daily basis.

I watch the television, because I still watch that rather than the Internet, in complete awe when they come on with shows showing new hand-held devices and other things that allow people to do anything from cooking their meal to learning French. It's absolutely amazing. If that kind of technology can be brought to bear today, and I'm sure that may be, if not today, tomorrow, then we should be embracing it. We should not be waiting for the next review, which I am afraid will be long after this Parliament or the Parliament that succeeds it.

I'm going to vote for this motion. I think it's a very sensible one to set up, to allow for the discretion of those who hold elections to find that new technology, to use it and literally free up millions of people who are constrained in what they're able to do today with the equipment we have today. This new thing might set us all free. Although I am a traditionalist, I have to tell you—I look forward to election day. I don't even vote in the advance polls. I want to make sure that I am there on election day to bring whatever government is in power down. I look forward to doing that.

Mr. David Zimmer: That's called prejudging the issue.

Mr. Michael Prue: But I understand that others may not want to trudge out to the polls. They may want to vote by other methods, because they feel more comfortable with them. I don't want to preclude that. I'm going to vote for this motion. I think it's a good one, and I will embrace whatever technological change comes by that works.

The Chair (Mr. Bas Balkissoon): Mr. Zimmer.

Mr. David Zimmer: Let me just ameliorate some of the concerns on this issue by letting everybody know that the government will be bringing a walk-on amendment later in these proceedings. The effect of that amendment is a proposal to direct the Chief Electoral Officer to con-

duct a review of alternative voting technologies and to make public a report of his review in advance of the 2015 election, giving meaningful opportunity for people to act and reflect and have input on that report.

1430

So we're mindful of these issues that you've raised and we're going to review them and treat them in a mature and thoughtful manner on a going-forward basis.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara?

Mr. Greg Sorbara: I think probably Mr. Chudleigh might want to go first.

Mr. Ted Chudleigh: If you're going to bring on an amendment of this nature, your amendment, I believe, if I get the sense of your amendment, would be prevented from being actioned in any way by the Chief Electoral Officer because of the clause that I'm proposing to remove. It prohibits electronic and telephone equipment.

Interjection.

Mr. David Zimmer: Mr. Sorbara will respond to that point.

Mr. Greg Sorbara: No, in fact, the thrust of the amendment will allow for the examination, notwithstanding this provision.

I feel like I'm cast too much in the role of the archaic member of the committee.

Mr. Ted Chudleigh: Those are your words.

Mr. Greg Sorbara: I've got to get out of this hole, sir.

Mr. Michael Prue: "Antediluvian" is the word.

Mr. Greg Sorbara: Antediluvian because—

Mr. David Zimmer: Just for the record, Mr. Sorbara does have a BlackBerry.

Mr. Greg Sorbara: Yes.

Mr. Ted Chudleigh: And he knows how to turn it on, too.

Mr. Greg Sorbara: Yes.

The issue for us in the design here was that an investigation of Internet, interconnected electronic voting was not going to be the subject of this review of the Election Act.

Now, you may have a view on that and you may have said, "Well, you know what? When we started the select committee process, it should have been, 'Let's have a look down that road.'" We made a decision as a government not to look down that road and the issue and the amendment that you're bringing up simply puts that into legislative form, but it's done within the context of issues relating to accessibility and accessibility equipment.

My problem is that if we're going down that road—I haven't done the Charter of Rights and Freedoms examination—it's all or nothing. If person A can vote at home on a computer, person B should have that right as well. There's a great debate to have there and there are a lot of issues. I'm not sure I have the answers, and I'm not sure where I would land.

I'm comfortable right now with the process. Just like my friend from Beaches–East York, I like to vote on election day. I like the campaign to be complete. I only

like to defeat governments when they are of the opposite stripe. I was very active in 1995, I tell my friend.

I think this is a subject for a good debate. Unfortunately, I don't think you can have that debate simply by an amendment in clause-by-clause after second reading of a bill that has had over a year of consideration.

Notwithstanding all of that, as my friend says, we are going to be bringing forward, walking in an amendment that will allow for that kind of preliminary work to be done by the Chief Electoral Officer, and report to the people and certainly to this Legislature. So I hope that that will satisfy some of the concerns.

The Chair (Mr. Bas Balkissoon): Ms. Jones?

Ms. Sylvia Jones: As the newbie on the committee, I beg to differ. I think that's exactly what clause-by-clause should be about. We listened to many deputants speak specifically about their desire to have that electronic hookup, whether it's by telephone or other electronic means, and I think it's terribly unfortunate that in the clause-by-clause component we are not opening up that possibility with a simple amendment that would be part of or connected. It simply allows the returning officer and the Legislative Assembly to explore that option of voting.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: Yes. I've heard the government members now say two or three times they're bringing in an amendment, which we do not have a copy of yet. Might I suggest that it's in the interests of the committee to hold this item down until such time as the government brings in their amendment. We can look at it; we can determine, as members of the committee, which is the better. We can then vote on them both at the same time. It's obvious we are not going to complete today, in any event, so it seems that rather than going around in circles, we look and see how good the government amendment is on the next occasion, we hold down this one, and we can then judge them side by side to see which is the better.

The Chair (Mr. Bas Balkissoon): So you're suggesting that we hold on motion 6.7 only?

Mr. Michael Prue: Yes, I think my amendment—

The Chair (Mr. Bas Balkissoon): Mr. Prue has got a request to hold on motion 6.7. Do I have agreement? Mr. Zimmer?

Mr. David Zimmer: Yes.

The Chair (Mr. Bas Balkissoon): You're in agreement?

Mr. David Zimmer: Yes, we're in agreement.

Mr. Ted Chudleigh: We agree.

The Chair (Mr. Bas Balkissoon): I have agreement on all sides, so we will hold down 6.7 until the government tables its new amendment.

I will now move to 6.7.1.

Mr. Michael Prue: I'm not sure if this one is impacted. Perhaps—

Interjection: I think that this is the same amendment.

Mr. Michael Prue: Well, it is, except that I'm simply asking that it be struck out so that we can move other

things at other times. Perhaps it would be wise to hold this one down as well.

The Chair (Mr. Bas Balkissoon): I have another request to hold 6.7.1. Do I have agreement?

Mr. David Zimmer: Yes, on the same terms as we're holding 6.7 down on.

The Chair (Mr. Bas Balkissoon): Okay, all in agreement?

So we'll move to 6.8, a PC motion. Ms. Jones.

Ms. Sylvia Jones: I move that subsection 44.1(7) of the act, as set out in subsection 23(1) of the bill, be amended by adding the following paragraph:

"3.1 The test conducted under subparagraph 2 i must be completed before the start of advance polls."

The reason for the motion is that this motion would require that all tests on accessible voting equipment are complete prior to the beginning of advance polls. A corresponding motion to paragraph 5 has been submitted by the PC caucus.

It is not unreasonable to require that the testing be completed prior to the beginning of advance polls. In fact, we would argue that, as it is currently worded, this paragraph 7 could unnecessarily diminish the voting opportunities of a voter who requires the use of accessible voting equipment.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Sorbara.

Mr. Greg Sorbara: I think we dealt with this issue comprehensively in a government motion recently passed, so I think this is unnecessary. Therefore, we won't support it.

The Chair (Mr. Bas Balkissoon): I'll take the vote on 6.8.

All in favour? Against? That motion does not carry.

We'll move to 6.9, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: We can withdraw this motion, I believe, because the other one wasn't agreed to by the government. We would withdraw this motion.

The Chair (Mr. Bas Balkissoon): Motion 6.9 has been withdrawn by the PC Party.

We'll move to motion 6.10, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that paragraph 5 of subsection 44.1(7) of the act, as set out in subsection 23(1) of the bill, be amended by striking out "even if advance polls have already begun".

The reason for this motion is that it supports our motion to add paragraph 3.1, which ensures accessible voting machines are available at the start of advance polls, for the same reasons stated previously.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Sorbara?

Mr. Greg Sorbara: We've dealt with this comprehensively in government amendments.

The Chair (Mr. Bas Balkissoon): I'll take the vote on 6.10.

All in favour? Against? That motion does not carry.

We'll move to 6.11, a PC motion. Ms. Jones.

Ms. Sylvia Jones: I move that paragraph 7 of subsection 44.1(7) of the act, as set out in subsection 23(1) of the bill, be struck out and the following substituted:

"7. The equipment may create a paper ballot. If a paper ballot is created, it must record the vote cast, be retained in the same way as ordinary ballots and show the name of the electoral district, the date of polling and the name of the printer."

This motion does not prohibit the use of printing of paper ballots when accessible voting equipment is used. It does recognize that technologies are being developed that may not require a printed ballot that meet the standards set out in this act for a valid vote to be cast. Like the current provision, it will require that a printed ballot meets sections 34 and 35 of the Election Act.

1440

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Sorbara.

Mr. Greg Sorbara: Just to say that our package of amendments and our approach rely on the paper ballot as part of the Ontario electoral process, and we hope to stick with that, at least for the time being.

The Chair (Mr. Bas Balkissoon): I'll take the vote on 6.11. All in favour? Against? That motion does not carry.

We'll move to 6.11.1, an NDP motion. Mr. Prue.

Mr. Michael Prue: I move that paragraph 7 of subsection 44.1(7) of the Election Act, as set out in subsection 23(1) of the bill, be struck out.

Having read that, I would advise the committee that this is a compendium piece to motion 6.7.1, which the committee has already agreed to hold down. I suggest it would be in order to hold this down until the same time.

The Chair (Mr. Bas Balkissoon): I have a request by Mr. Prue to hold this motion. All in agreement? Agreed.

We'll move to 6.11.2. Mr. Prue.

Mr. Michael Prue: I move that paragraph 8 of subsection 44.1(7) of the Election Act, as set out in subsection 23(1) of the bill, be amended by striking out "before the paper ballot is printed" at the end.

I think it's self-explanatory.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Chudleigh.

Mr. Ted Chudleigh: We have the same motion, so we'll be supporting it.

The Chair (Mr. Bas Balkissoon): I will take the vote on 6.11.2. All in favour? Against? That motion does not carry.

We'll move to 6.11.3. Mr. Prue.

Mr. Michael Prue: When at first you don't succeed, you try and try again.

I move that paragraph 9 of subsection 44.1(7) of the Election Act, as set out in subsection 23(1) of the bill, be amended by striking out "after the paper ballot is printed but before casting his or her vote".

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Greg Sorbara: The same comments.

The Chair (Mr. Bas Balkissoon): We'll take the vote on 6.11.3. All in favour? Against? That motion does not carry.

We'll move to 6.12, a PC motion. Ms. Jones.

Ms. Sylvia Jones: I move that paragraphs 8 and 9 of subsection 44.1(7) of the act, as set out in subsection 23(1) of the bill, be struck out and the following substituted:

"8. The equipment must allow the person to verify his or her vote, without the assistance of another person, before casting the vote."

We've gone over it. I think everybody understands the intent of the amendment.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Sorbara.

Mr. Greg Sorbara: We agree with the intent. We think we've covered that in motions that my friend has actually supported.

The Chair (Mr. Bas Balkissoon): We'll take the vote on 6.12. All in favour? Against? That motion does not carry.

We'll move to 6.12.1, an NDP motion. Mr. Prue.

Mr. Michael Prue: I move that paragraph 10 of subsection 44.1(7) of the Election Act, as set out in subsection 23(1) of the bill, be amended by striking out "The equipment must have" at the beginning and substituting "If the equipment produces a paper ballot, the equipment must".

It's self-explanatory.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Greg Sorbara: Again, our same comment with respect to paper ballots.

The Chair (Mr. Bas Balkissoon): We'll take the vote on 6.12.1. All in favour? Against? That motion does not carry.

We'll move to 6.13, a PC motion.

Mr. Ted Chudleigh: I move that subsection 44.1(8) of the Election Act, as set out in subsection 23(1) of the bill, be amended by striking out "shall be counted" and substituting "may be counted".

The Chair (Mr. Bas Balkissoon): Questions or comments?

There being none, I'll take the vote on 6.13. All in favour? Against? The motion does not carry.

We'll go to 6.13.1, an NDP motion. Mr. Prue.

Mr. Michael Prue: I move that subsection 44.1(8) of the Election Act, as set out in subsection 23(1) of the bill, be struck out.

The Chair (Mr. Bas Balkissoon): Questions or comments?

There being none, we'll take the vote on 6.13.1. All in favour? Against? The motion does not carry.

We'll move to 6.14, a PC motion. Ms. Jones.

Ms. Sylvia Jones: I move that subsection 44.1(9) of the act, as set out in subsection 23(1) of the bill, be struck out and the following substituted:

"Manual count

"(9) The returning officer shall have the count conducted manually if,

“(a) the tests conducted under subparagraphs 3 i and ii of subsection (7) are inconsistent; and

“(b) the equipment creates a paper ballot.”

The reason for this motion is that it would require paper ballots that will meet the requirement under sections 34 and 35 of the act, and that are created from accessible voting equipment, to be counted manually if the tests under subsection (7) are inconsistent.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, we'll take the vote on 6.14. All in favour? Against? The motion does not carry.

We'll move to 6.14.1, an NDP motion. Mr. Prue.

Mr. Michael Prue: I move that section 44.1 of the Election Act, as set out in subsection 23(1) of the bill, be amended by adding the following subsection:

“Consultation after use of equipment

“(9.1) When accessible voting equipment and related vote counting equipment are used in an election under this section, the Chief Electoral Officer shall consult with persons with disabilities after the election and make public the nature of the comments received and any proposed changes to be made with respect to the equipment as a result of the consultation.”

I think this is absolutely the right thing to do. It's self-evident, what we're asking for. We think that at the end, the Chief Electoral Officer has to sit down with the community that's affected, has to hear them out, has to consult with them, has to publish what they have said and make any recommendations to rectify things that go wrong. It's pretty simple.

I'm asking for a recorded vote on this one.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Sorbara.

Mr. Greg Sorbara: First of all, I'd like to record our party's support of this principle, and we're in agreement with that. I think my friend Mr. Prue has followed the progress of the development of this bill and the great work—let me give his party and the Conservative Party credit as well as people in our party—in trying to come to grips with the very valid issues that this community has raised in terms of accessibility at elections. I think each of us has said that we've got to do some more homework here.

One of the issues was the business that's dealt with in this amendment: consultation and reporting back. What we're really doing in the bill is establishing, might I say, an ongoing dialogue between Elections Ontario under a new Chief Electoral Officer, the province at large, and the disabled community in particular. So we agree with that principle.

We will record our opposition to this particular section, not because we don't agree with the principle, but because we, too, have acknowledged that. In the amendments and the package of amendments that we've brought forward in this act, we've dealt with that pretty comprehensively. We're satisfied that the very consultation that my friend is calling for here will be provided for when the bill is finally read for a third time and proclaimed into law.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: If you could point out where that is, because I haven't seen it.

Mr. Greg Sorbara: I will do that in comments down the road.

Mr. Michael Prue: No, no. Is there another motion that's contained in this body we're still to deal with that says this?

Mr. Greg Sorbara: I will show you in due course where consultation is provided for in the act. In your view, it may not be sufficient, but I think you'll find that it is. Just give me a few minutes on that, and I'll get back to it.

Mr. Michael Prue: Well, then, if we can hold that down, because I would like to be educated.

The Chair (Mr. Bas Balkissoon): I have a request by Mr. Prue to hold down 6.14.1. Do I have agreement? Agreed.

Mr. David Zimmer: So that's 6.14.1?

The Chair (Mr. Bas Balkissoon): Number 6.14.1 is on hold.

We'll now move to 6.15, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that subsection 44.1(10) of the act, as set out in subsection 23(1) of the bill, be struck out and the following substituted:

“Report

“(10) When accessible voting equipment and related vote counting equipment are used in an election under this section, the Chief Electoral Officer shall make a report on the matter, after consulting with electors with disabilities.

“Same

“(10.1) Without limiting the generality of subsection (10), the report shall deal with the rules set out in subsection (7) and with inconsistent tests described in subsection (9).

“Same

“(10.2) The Chief Electoral Officer shall,

“(a) provide copies of the report to the leader of each registered party;

“(b) publish the report on a website on the Internet; and

“(c) include the report,

“(i) in any report that the Chief Electoral Officer makes with respect to the election, or

“(ii) in the next annual report made under section 114.3.”

The reason for this motion is, it expands the requirements of the Chief Electoral Officer's report and it requires that he or she consult with electors. It also requires the inclusion of certain items in the report, such as information on the tests carried out on the equipment under subsection (7) and the inconsistencies referred to in subsection (9).

Similar to other PC motions, this motion also expands the availability of the report by putting it in a central accessible location on Elections Ontario's website.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I'll take the vote on 6.15. All in favour? Against? The motion does not carry.

We'll move to 6.16: PC motion, Ms. Jones.

Ms. Sylvia Jones: I move that section 44.1 of the act, as set out in subsection 23(1) of the bill, be amended by adding the following subsection:

“Ballot not to be rejected

“(10.3) A paperless ballot shall not be rejected under subsection 57(2) if it has been verified by the elector under subsection (7).”

Again, we’re trying to pull the election process into the 21st century and ensure that electronic options are available for future elections.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, we’ll take the vote on 6.16. All in favour? Against? That motion does not carry.

We’ll move to number 7: government motion, Mr. Zimmer.

Mr. David Zimmer: I move that subsection 23(2) of the bill be amended by striking out “Subsection 44.1(4)” at the beginning and substituting “Subsection 44.1(3)”.

This is just a consequential amendment required because of the revised numbering in motion 6.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, we’ll take the vote on 7. All in favour? Against? The motion carries.

I will now move to page 7.1.

Mr. David Zimmer: Chair, the next one’s an NDP motion. I’ve just been given a heads-up that it’s quite a lengthy one and—

The Chair (Mr. Bas Balkissoon): I can’t hear you.

Mr. David Zimmer: I’ve just been given a heads-up, subject to what Mr. Prue has to say, that the next motion, an NDP motion, is a lengthy one, and I rather expect there’ll be some debate which will take us comfortably past 3 o’clock. So I’m in your—

The Chair (Mr. Bas Balkissoon): Would you prefer that we adjourn at this time to be back next week, Mr. Prue?

Mr. Michael Prue: I think that that is not unreasonable. As well, I have a member’s statement, so I have to be in the House at 3.

The Chair (Mr. Bas Balkissoon): Do I have agreement by all that we adjourn?

Interjections: Agreed.

The Chair (Mr. Bas Balkissoon): The meeting is adjourned until next Wednesday at 12 o’clock.

The committee adjourned at 1453.

CONTENTS

Wednesday 14 April 2010

Election Statute Law Amendment Act, 2010, Bill 231, Mr. Bentley / Loi de 2010
modifiant des lois en ce qui concerne les élections, projet de loi 231, M. Bentley..... M-51

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Substitutions / Membres remplaçants

Mr. Ted Chudleigh (Halton PC)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. David Zimmer (Willowdale L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Ms. Cornelia Schuh, legislative counsel

CA20N
VC20
-L20

Government
Publication



M-4

M-4

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 21 April 2010

Journal des débats (Hansard)

Mercredi 21 avril 2010

Standing Committee on the Legislative Assembly

Election Statute Law
Amendment Act, 2010

Comité permanent de l'Assemblée législative

Loi de 2010 modifiant des lois
en ce qui concerne les élections



Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

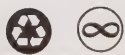
<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.



LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 21 April 2010

Mercredi 21 avril 2010

*The committee met at 1215 in room 151.*ELECTION STATUTE LAW
AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES ÉLECTIONS

Consideration of Bill 231, An Act to amend the Election Act and the Election Finances Act / Projet de loi 231, Loi modifiant la Loi électorale et la Loi sur le financement des élections.

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order today, Wednesday, April 21. We're here to deal with Bill 231, An Act to amend the Election Act and the Election Finances Act, the continuation of clause-by-clause consideration.

Committee, we will deal with motion 7.1. It's an NDP motion. Mr. Prue.

Mr. Michael Prue: If I could, now that legislative counsel has arrived, I do know that my caucus was preparing a number of amendments to motions that we were given from the government yesterday and that legislative counsel was working on. Are those now available? I know you've just arrived. Are they available?

Ms. Cornelia Schuh: I came rushing over. I'm looking for them, and I'm not sure that I've got them.

Mr. Michael Prue: Because if there are amendments—and I'm not sure exactly which motions they impact—the amendments may have to go before the motion. So I would like to at least see the numbers of them and where they fit before proceeding.

Ms. Cornelia Schuh: I really must beg the committee's indulgence. I only got word of this request about an hour ago. I do believe I have come away without the key document, which was your new motion.

Mr. Greg Sorbara: Do you have a copy of it?

Mr. Michael Prue: No, I do not.

Ms. Cornelia Schuh: I have emailed it to your assistant, but I don't seem to have the hard copy myself.

Mr. Michael Prue: They would be my amendments to your motion.

The Chair (Mr. Bas Balkissoon): To 7.1.1?

Mr. Michael Prue: I'm not sure of the numbers.

Mr. Greg Sorbara: That's probably the case because 7.1.1 and 7.2.1 are the substantive additions from the week.

Mr. Michael Prue: I think we have no alternative but to wait till they arrive, because I think they may have to be dealt with if they're amendments to the motion. I would make them at the time that you read the motion in, and then they would be dealt with first.

The Chair (Mr. Bas Balkissoon): Should we continue to hold everything down, carry on and we'll come back?

Mr. Michael Prue: Carry on with what?

Mr. Greg Sorbara: We've lost both the clerk and legislative counsel, so I think we are going to wait for your amendment. I don't think we have any problem if it's just a few minutes. They should be—

The Chair (Mr. Bas Balkissoon): I mean that we could carry on with motion number 8, which is unrelated.

Mr. David Zimmer: So we're just holding it down, waiting until Mr. Prue has his stuff?

The Chair (Mr. Bas Balkissoon): That's my suggestion.

Mr. David Zimmer: I'm going to leave my papers here. I'm taking my BlackBerry, and I'm going out in the hall.

The Chair (Mr. Bas Balkissoon): Okay.

Mr. David Zimmer: I'll be out there or in the wash-room, but don't anybody breathe on my desk or all these papers will get reshuffled.

The Chair (Mr. Bas Balkissoon): According to my clock—

Interjection.

The Chair (Mr. Bas Balkissoon): Do we need 15 minutes or five?

Mr. Ted Chudleigh: Five.

The Chair (Mr. Bas Balkissoon): Five?

Mr. Ted Chudleigh: We're ready to go. We don't need to have a recess—

The Chair (Mr. Bas Balkissoon): Michael does.

Mr. Ted Chudleigh: We're organized and efficient.

Interjection.

The Chair (Mr. Bas Balkissoon): We'll take a five-minute recess.

The committee recessed from 1219 to 1229.

The Chair (Mr. Bas Balkissoon): I call the meeting to order.

So we'll go to section 24, which has no amendments. Shall section 24 carry? Carried.

The next motion is motion 8, a government motion. Mr. Zimmer?

Mr. David Zimmer: I move that section 25 of the bill be amended by adding the following as section 45.2.1 of the Election Act:

“List of special ballot electors

“Applications in electoral district

“45.2.1(1) Each day during the period that begins on the 28th day before polling day and ends at 6 p.m. on the last day before polling day, the special ballot officer in the returning office shall notify the returning officer of the names, addresses and polling division numbers of all electors whose applications to vote by special ballot are approved on that day.

“Applications to Chief Electoral Officer

“(2) On receiving notice under subparagraph 4 i of subsection 45.2(6) that an elector is voting by special ballot, the returning officer shall record the elector’s name, address and polling division number.

“Candidates

“(3) On request, the returning officer shall provide to every candidate who has been nominated a list of electors with respect to whom the returning officer has received notice under subsection (1) or (2) up to the time the request is made.”

Thank you, Chair.

The Chair (Mr. Bas Balkissoon): Any further comments?

Mr. Michael Prue: Yes. I have some considerable difficulty with the third part of this, that on request, the returning officer shall provide a list to every candidate. Now, I’m not upset—I mean, currently what happens is that with someone who votes in the advance poll, that list is made available to the candidates. But what you are doing here, or what you’re purporting to do here, is to give the candidates a list of people who have self-identified or have come to the electoral officer to say that they have a disability that requires them to have a special ballot. Now, some people may not want that information to be known.

I’m just wondering why this section is in here. Why can’t they just be included in people who have voted in the advance poll? Surely that would be enough. I don’t understand why you are identifying people with a disability. What difference does it make to the candidates whether or not the person has a disability or voted in the advance poll? That’s why I don’t understand what you’re doing.

Mr. David Zimmer: I’ll call in the Chair of the select committee which covered these matters.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara?

Mr. Greg Sorbara: Well, Mr. Chair, this is simply to ensure that accurate information about special ballot electors is provided to candidates. I don’t think my friend should be as troubled as he is about it. It indeed arose from submissions by Jack Siegel to our committee some weeks ago.

The Chair (Mr. Bas Balkissoon): Mr. Chudleigh?

Mr. Ted Chudleigh: I don’t know to what end—the candidates have received a list of electors, as they should. But to segregate the list of electors, I think, is a slippery

slope. I don’t think that is where Ontario should be going. I mean, what’s next to identify? We could identify any number of different subsections of people who are going to vote. I think you’re headed down the wrong road here. As long as the candidates have a list of electors, I don’t think we need any electors with asterisks attached to them.

Mr. Greg Sorbara: Well, again, let’s be very clear that special ballots are available to all people. We expect that people with disabilities will be the primary users. But that is not the case. This is a voting method available to all voters and it simply provides information to candidates as to who receives those, so that in the normal course of campaigning a different approach can be taken.

Mr. Ted Chudleigh: I sense some hesitancy on this. I’d ask you to think about this. I think you’re going down a very difficult road here. I think Sylvia has a comment or two.

Ms. Sylvia Jones: I just wanted to talk more about why we would separate the special ballots from people who have voted, for example, in an advance poll. It comes back, for me, to: Why would you need to have that information designated in a separate way? I cannot imagine why a candidate would need to know anything more than whether the person has voted or hasn’t voted. So, I agree with the NDP member and Mr. Chudleigh. I don’t see the purpose of that section.

Mr. Ted Chudleigh: We’d be pleased to make it unanimous if you remove that section.

Mr. Greg Sorbara: I understand your concerns. I think we’ve dealt with those concerns as a practical matter. This will not give rise to problems. In fact, it will allow expeditious undertaking of the campaign. I am reminded by my colleague that the AODAA is fully accepting of this provision. In an advance poll, a voter votes and that person’s name is checked off. That’s one way of identifying whether someone has voted. On voting day, voters’ names are checked off, and that’s another way of getting a list of voters. So, you’re able to know who has voted. You can go and try to urge out those who haven’t voted. With special ballots, there is not that indication. All you know is that a person has applied for a special ballot. So that’s other information—I think, good, fair information—available to all candidates. So we’re going to stick with our amendment.

Mr. Ted Chudleigh: A recorded vote.

Mr. Michael Prue: Yes, absolutely

The Chair (Mr. Bas Balkissoon): We’ll take the vote on motion number 8.

Ayes

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

Nays

Chudleigh, Jones, Prue.

The Chair (Mr. Bas Balkissoon): That motion carries. We’ll move to motion 8.0.1, NDP: Mr. Prue.

Mr. Michael Prue: I move that clauses 45.3(1)(a) and (b) of the Election Act, as set out in section 25 of the bill, be struck out and the following substituted:

“(a) it may be impossible or unreasonably difficult for the elector to attend at a returning office and the elector needs assistance with making an application to vote by special ballot, because of a disability or because of inability to read or write; or

“(b) the elector is a person with a disability that affects his or her mobility or vision.”

I think that this is self-explanatory. We think that this will enhance the rights of those with disabilities.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Ted Chudleigh: We support the motion, and then we have a similar motion.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 8.0.1. All in favour? Against? That motion is lost.

We'll move to motion 8.1, PC motion: Mr. Chudleigh.

Mr. Ted Chudleigh: I move that the bill be amended by adding the following section:

“23.1 The act is amended by adding the following section:

“Alternative voting technologies

“44.2(1) The Chief Electoral Officer shall conduct a review of two or more alternative voting technologies”

Mr. Michael Prue: I think you're reading my amendment.

Mr. Ted Chudleigh: Apparently we didn't turn the page.

Moving on from there, I move that subsections 45.3(1) and (2) of the Election Act, as set out in section 25 of the bill, be struck out and the following substituted:

“Home visit

“(1) At an election, an elector may make a request for a home visit to the returning officer in the electoral district where the elector resides if,

“(a) it would be impossible or unreasonably difficult for the elector to attend at a returning office; and

1240

“(b) the elector,

“(i) needs assistance with making an application to vote by special ballot, because of a disability or because of inability to read or write, or

“(ii) has a disability, and a home visit would improve accessibility for him or her.

“Same

“(2) The returning officer shall verify that the elector,

“(a) satisfies the condition set out in clause (1)(a) and one of the conditions set out in subclauses (1)(b)(i) and (ii); and

“(b) resides in the electoral district.”

The Chair (Mr. Bas Balkissoon): Any further comments?

Mr. Ted Chudleigh: This motion just expands the eligibility for home visits, recognizing that some voters

with disabilities should be entitled to a home visit to ensure their opportunity to vote in an election.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Michael Prue: Yes. This is, as was said earlier, very similar to the one that I just moved and that was defeated by the government, but I think really all it does is, it expands the rights of people who are probably in the most difficult of circumstances being unable to vote. It allows for a home visit. It allows for the vote to be recorded and assistance to be given. This would be extremely limited, in my view. It would involve most probably people within the disability community but those who are the most severely disabled, without which help they would never be able to cast a ballot. I think it's a reasonable thing to do, and I would ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested. I'll take the vote on motion 8.1.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll now move to 8.1.1, NDP motion: Mr. Prue.

Mr. Michael Prue: I move that subsection 45.3(2) of the Election Act, as set out in section 25 of the bill, be struck out and the following substituted:

“Same

“(2) The returning officer shall verify that the elector resides in the electoral district.”

I think it's self-explanatory. I think it needs to be done.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I'll take the vote on 8.1.1. All in favour? Against? That motion is lost.

Motion 8.2, PC motion: Mr. Chudleigh.

Mr. Ted Chudleigh: I move that section 45.3 of the Election Act, as set out in section 25 of the bill, be amended by adding the following subsection:

“Refusal, appeal

“(3.1) On determining that an elector does not qualify for a home visit, the returning officer shall immediately give the elector notice of the determination, with reasons; the elector is entitled to appeal the determination to the Chief Electoral Officer, and the following rules govern the appeal:

“1. The elector must give the Chief Electoral Officer a notice of the appeal at least five business days before polling day.

“2. The Chief Electoral Officer shall deal with the appeal and shall, within three business days after receiv-

ing the notice of appeal, give notice of the decision, with reasons, to the elector and to the returning officer.”

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I’ll take the vote on 8.2. All in favour? Against? That motion is lost.

Motion 8.3: Mr. Chudleigh.

Mr. Ted Chudleigh: I move that section 45.3 of the Election Act, as set out in section 25 of the bill, be amended by adding the following subsections:

“Special ballot officers

“(3.2) The Chief Electoral Officer shall ensure that every special ballot officer who is assigned to home visits undergoes a police background check with satisfactory results before conducting his or her first home visit.

“Same

“(3.3) Every special ballot officer who conducts a home visit shall carry identification confirming that he or she is a special ballot officer and that subsection (3.2) has been complied with.”

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I’ll take the vote on 8.3. All in favour? Against? That motion is lost.

We’ll move to 8.4, PC motion: Mr. Chudleigh.

Mr. Ted Chudleigh: I move that subsection 45.3(6) of the Election Act, as set out in section 25 of the bill, be struck out and the following substituted:

“Declaration on outer envelope

“(6) If the elector is unable to sign the declaration on the sealed outer envelope as mentioned in clause 45.7(d), one of the special ballot officers shall make a note on the envelope indicating that the elector voted at a home visit.

“Elector to whom s. 15(1.3) applies

“(7) An elector to whom subsection 15(1.3) applies may make a request for a home visit to the returning officer in the electoral district where the elector is temporarily living, whether the elector wishes to vote in that electoral district or in the electoral district where his or her residence is located, and subsections (1) to (6) apply with necessary modifications.”

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Ted Chudleigh: Currently, as the bill is worded, an elector who is unable to sign the declaration on the outer envelope during a home visit could have his or her ballot set aside, despite subsection (2) of section 47.1, because there is no authority for the special ballot officer to indicate that the elector marked his or her ballot during a home visit—just a verification that the ballot was taken.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara.

Mr. Greg Sorbara: This is just yet another one of the many instances where the PC caucus has done very high-quality research on the provisions of this bill. We confirm the wisdom of the research and we have every intention of supporting this amendment.

Ms. Sylvia Jones: Hallelujah.

The Chair (Mr. Bas Balkissoon): We’ll take the vote on motion 8.4.

Interjection.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested.

Ayes

Chudleigh, Dickson, Jones, Mangat, Naqvi, Prue, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): The motion carries.

We move to motion 8.5: NDP motion, Mr. Prue.

Mr. Michael Prue: I move that section 45.3 of the Election Act, as set out in section 25 of the bill, be amended by adding the following subsection:

“Appeal rights

“(7) If a returning officer refuses a request for a home visit, he or she shall promptly provide the elector with reasons for the refusal and the elector who made the request may appeal the refusal in the manner prescribed by the regulations.”

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Michael Prue: It’s self-evident.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara.

Mr. Greg Sorbara: Not to be critical of the great research by the NDP folk, we feel that this motion is not necessary and, indeed, that an appeal process during an election period would be difficult to administer. We do not believe that this situation will arise and require an appeal, so we won’t be supporting it.

The Chair (Mr. Bas Balkissoon): We’ll take the vote on motion 8.5.

Mr. Michael Prue: Recorded vote.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We’ll move to 8.6: NDP motion, Mr. Prue.

Mr. Michael Prue: I move that section 45.5 of the Election Act, as set out in section 25 of the bill, be amended by adding the following subsection:

“Same

“(2) A special ballot kit and the voting procedures for special ballots must enable electors with disabilities to independently mark their ballot in privacy and verify their choice.”

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Michael Prue: I think, again, this is self-explanatory. A great deal was said by all of the people who came from the disabled community talking about privacy of the ballot and that it’s not good enough to simply have

someone else mark your ballot, somebody else know what your ballot said, but in fact that they have to be able to have the ability, like every other elector, to mark their ballot in privacy and verify their own choice to make sure that it was correct before it goes in the ballot box.

The Chair (Mr. Bas Balkissoon): Further comments?

Mr. Greg Sorbara: Again, although we support the overall policy and intention of the amendment, there are implementation aspects of this which would make it irresponsible to support, so we'll not be supporting it.

The Chair (Mr. Bas Balkissoon): We'll take the vote on it—

Mr. Michael Prue: No, no. If I could question the previous speaker: What examples could you possibly give of this?

Mr. Greg Sorbara: I don't want to get into a long debate about this, but we think that—

Mr. Michael Prue: Just give me one.

Mr. Greg Sorbara: What you're saying here is that, notwithstanding whatever the disability is, the elector shall have the right to independently mark the ballot in privacy and verify the choice. It just goes beyond that which is practically implementable, given the wide variety of disabilities.

1250

While we understand the principle and agree with you on the principle, we think the provisions for special ballots will meet the needs of the part of the electing community that will require special ballots, and we're not going to support the amendment.

The Chair (Mr. Bas Balkissoon): We'll take the vote on 8.6.

Mr. Michael Prue: A recorded vote, please.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll now move to motion number 9, a government motion. Mr. Zimmer.

Mr. David Zimmer: I move that section 45.5 of the Election Act, as set out in section 25 of the bill, be amended by adding the following subsection:

"Same

"(2) In the case of a general election, the special ballot kit shall contain only the part of the list that shows the candidates for the elector's electoral district."

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Prue.

Mr. Michael Prue: I understand that you don't want to separate out other electoral districts, but what if there is a concurrent plebiscite, as there was in the last election? This would seem to me not to allow that, because

the only thing that could be contained would be this. Is that not what this says?

Mr. Greg Sorbara: No, I don't think that's the case. The fact is that in the event of a concurrent plebiscite, it may well be that the plebiscite has special rules applying to it, in any event, as to who can vote and how the vote can take place. I think we've looked at that.

We simply want to confirm, with this amendment, that electors should not have lists of candidates from other electoral districts, and that's why we're proceeding with the amendment.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: Could I get one clarification: The candidates' names would be included, but would party affiliation be included?

Mr. Greg Sorbara: No.

Ms. Sylvia Jones: So even though it's on the ballot—

Mr. Greg Sorbara: Do we have party affiliation—

Ms. Sylvia Jones: We do on the ballot.

Mr. Greg Sorbara: Then that would be the case.

Ms. Sylvia Jones: So does this have to clarify that? This could be construed as only candidates' names, not candidates' names and party affiliations.

Mr. Greg Sorbara: No. This would reflect what is on the ballot for all other electors.

Mr. Michael Prue: With the greatest respect, I don't think that is what this says. This should be precise. I'll vote for it, in spite of the fact that I'm not sure of the reasoning behind the plebiscite part, but this shows the candidates and their respective parties for the elector's electoral district. It seems logical to me that if that is on an ordinary ballot, by law the same information should be on a ballot for a person with a disability.

Mr. Greg Sorbara: The answer is that that is the case. This does not change the case.

Just as a practical problem, Michael, as you know, there is often a fairly long list of candidates who have no party affiliation whatsoever. The way that the act deals with that is just to state "candidates," and in other places where candidates are affiliated with political parties, the political parties shall be there. This does not prohibit inclusion of political party affiliation where there is one.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: I hate to disagree, but I believe that independents are actually listed with their name and the word "independent," so by extension, if there is no party affiliation, they are noted as independent.

Mr. Greg Sorbara: I just want to assure my friend that this provision does not mean that a special ballot would not have party affiliation or "independent" on it when referring to candidates.

The Chair (Mr. Bas Balkissoon): No further questions or comments?

I'll take the vote on motion number 9. All in favour? Against? That motion carries.

I'll move to 9.1, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that section 45.10 of the Election Act, as set out in section 25 of the bill, be amended by adding the following subsections:

"Report

"(6) After the election, the Chief Electoral Officer shall make a report about any envelopes that are set aside unopened under subsection (1) or (3) and shall,

"(a) give notice of the report to the leader of each registered party; and

"(b) publish the report on a website on the Internet.

"Same

"(7) The report described in subsection (6) shall be included,

"(a) in any report that the Chief Electoral Officer makes with respect to the election; or

"(b) in the next annual report made under section 114.3."

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Ted Chudleigh: This report is an accountability and transparency measure.

The Chair (Mr. Bas Balkissoon): I'll take the vote on motion 9.1. All in favour? That motion carries.

We'll move to 9.2, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that section 45.12 of the Election Act, as set out in section 25 of the bill, be amended by adding the following subsection:

"Notice re restriction

"(1.1) When an elector's name is added to the register of absentee electors, the elector shall be given notice of subsection (7)."

By way of explanation, this subsection provides notice to absentee electors of the rule under subsection (7). It does so because we recognize that electors living outside of Ontario may not be located in one location for long periods of time, and we want to help ensure that those electors who do move are advised ahead of time that in the case of an election, they should have their mail forwarded if they wish to receive their ballot and vote, and also to help avoid the chance that non-eligible electors are provided with a ballot.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

There being none, I'll take the vote on 9.2. All in favour? Against? The motion is lost.

We'll move to 9.3, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that section 45.12 of the Election Act, as set out in section 25 of the bill, be amended by adding the following subsection:

"Updating register

"(1.2) When a writ for an election is issued, the Chief Electoral Officer shall update the register of absentee electors."

This motion simply ensures that the most accurate registry is available. We don't see it anywhere else in the act.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

There being none, I'll take the vote on 9.3. All in favour? Against? The motion is lost.

Motion 9.4, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: We would withdraw this motion.

The Chair (Mr. Bas Balkissoon): Motion 9.4 has been requested to be withdrawn. All in agreement? Okay, it's withdrawn.

We'll move to 9.5, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that subsection 45.12(6) of the Election Act, as set out in section 25 of the bill, be amended by striking out "within the time specified" and substituting "within the reasonable time specified".

Adding "reasonable" accounts for the varied locations and circumstances electors may find themselves living in outside of Ontario.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

There being none, I'll take the vote on 9.5. All in favour? Against? The motion is lost.

Shall section 25, as amended, carry? Carried.

We'll move to section 25.1, motion 9.6, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that the bill be amended by adding the following section:

"25.1 The act is amended by adding the following section:

"Training re needs of electors with disabilities

"55.0.1 Before the first advance poll in every election, every returning officer shall ensure that all electoral officers in the electoral district receive training in understanding the needs of electors with disabilities."

By way of explanation, during committee, we heard a number of stories about how electors were mistreated. Knowledge of the needs of electors with disabilities can help to avoid these situations and provide a basis for creating workable solutions to problems if and when they may arise.

1300

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Prue.

Mr. Michael Prue: I think this is very reasonable. We did hear a couple of horror stories of electoral personnel saying—I think the one that stands out best in my mind is, "Why should I hold the door open and have my people cold just so you can vote?" I think that attitude needs to be driven out of people before election day.

Mr. Ted Chudleigh: Just a little sensitivity training I think would be a good thing as part of the process.

Mr. Michael Prue: Yes.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 9.6. All in favour? The motion carries.

We'll move to 9.7, NDP motion: Mr. Prue.

Mr. Greg Sorbara: I was particularly moved by Michael's comment.

Mr. Michael Prue: Yeah. You remember that statement?

Mr. Greg Sorbara: I do, yes. I do.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"25.1 The act is amended by adding the following section:

“Report on website

“55.2 Every report mentioned in section 55.1 shall be published on a website on the Internet.”

By way of explanation, that's to give it the broadest possible public understanding.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I'll take the vote on 9.7. All in favour? Against? The motion is lost.

We'll move to motion 10, government motion: Mr. Zimmer.

Mr. David Zimmer: I move that the bill be amended by adding the following section:

“25.1 The act is amended by adding the following before the heading ‘Effect of Irregularities’:

“Report

“67.2(1) After every election, the Chief Electoral Officer shall prepare a report that includes,

“(a) a summary of,

“(i) feedback received on the manner in which services are provided under this act to persons with disabilities in accordance with the Accessibility for Ontarians with Disabilities Act, 2005 and the regulations made under that act; and

“(ii) the response to the feedback, including any steps taken to respond to negative feedback;

“(b) a summary of every report made under subsection 55.1(1);

“(c) in the case of a general election, the findings of the survey conducted under subsection 67.1(1);

“(d) a summary of measures taken at the election to address barriers to accessibility and other accessibility issues; and

“(e) any recommendations with respect to barriers to accessibility and other accessibility issues that the Chief Electoral Officer considers appropriate.

“Same

“(2) The Chief Electoral Officer shall include the report described in subsection (1),

“(a) in any report that the Chief Electoral Officer makes with respect to the election; or

“(b) in the next annual report made under section 114.3.”

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Greg Sorbara: Just some general comments because this is, in our view, an important addition to the bill dealing with transparency and accountability with respect to election accessibility.

I just want to put on the record that in my time around this place, I've seen legislation go through fairly substantial transformation, going from, in the case of this bill, a select committee process which I had the honour of chairing through introduction of the bill and second reading, then public hearings and now final consideration. But I think that this bill is very significant in the extent to which issues relating to accessibility have come to be the major headline when it comes to the rewriting of our Election Act and the Election Finances Act. I think we're all very happy about that.

I'm going to take a moment to congratulate, through my dear friend and former student colleague David Lepofsky, the work of the AODAA in bringing, over and over again, these issues to our attention, to make the bill a better bill. We've got a very limited amount of time now to wrap this up. I could go through section by section where we have made advances. When it's all done, I think the disability community might say, “It's not everything we wanted, but the process worked. This is a very different bill, given the fact that opposition and government members, and the government minister responsible, did us the courtesy of listening to our concerns.” That process has been ongoing, really, ever since we announced the select committee and right up until when I walked into this room just about an hour ago.

This particular section: It's clear on its face what it does. Its purpose is to enhance transparency and accountability. I think all members are going to support it. I hope they will. But even if they don't, I want to say to all members that I personally, as someone who has been involved in this process from day one, am very appreciative of the work on all sides of the House in listening and making sure that we get this thing right.

We probably revisit our Election Act with every Parliament. This is a substantial exercise, and I think we can be proud of the progress that we've made in all the other areas where this bill addresses amendments, but in particular with the way in which elections will be deployed in the future, with special attention to making sure that the needs of the disabled community are met in poll place after poll place, in riding after riding and across the province.

The Chair (Mr. Bas Balkissoon): Questions, comments? Mr. Chudleigh.

Mr. Ted Chudleigh: I agree with what the member says. I'd also hope that you would support our motion, which calls for a post-election review as well. I think that's—

Mr. Greg Sorbara: Now you're going too far.

Mr. Ted Chudleigh: You talked about the amending process and how this bill is a much better bill than it was when it first came to the House, and I would agree with you, although I would have to point out that there are seven amendments that particularly made a huge difference to this bill, and those are the seven PC motions that you've seen fit to support.

The only other comment I would make is that the things that are not in this bill still concern us.

Mr. Michael Prue: If I could, because I can't let this opportunity go by, I have to say, to this point, I cannot concur with my learned colleague on the other side, because I think every single step that has been taken by the government in every government motion is a grudging motion. It is only partially going towards meeting what the disability community wants.

The motions that we have made—and you voted against every one to date, and I think by the time we're finished, you're going to vote against every single one of them in total—all came from the disability community:

every single one of them, what they wanted. All you are willing to give them is partial answers, a hope for the years to come, saying that, "We're listening to you," but in reality, the next election is not going to be disability-free, as they want and as you should want as well.

The Chair (Mr. Bas Balkissoon): I'll take the vote on motion 10. All in favour? Against? The motion carries.

We'll move to motion 10.1, PC motion: Mr. Chudleigh.

Mr. Ted Chudleigh: Go ahead.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: I move that the bill be amended by adding the following section:

"25.2 The act is amended by adding the following section:

"Elections Ontario website

"55.0.2 Any website on the Internet where the Chief Electoral Officer publishes information for the purposes of this act shall meet the accessibility standard of W3C WCAG 2.0 level AA format or higher."

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I'll take the vote on 10.1 All in favour? Against? The motion is lost.

NDP motion 10.1.1: Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"25.2 The act is amended by adding the following section:

"Report by Chief Electoral Officer after general election

"55.3 No later than four months after a general election is held, the Chief Electoral Officer shall make public a report by publishing it on a website on the Internet and by such other means as he or she considers advisable, regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities, including the following:

"1. The steps that the Chief Electoral Officer took to ensure that the election was accessible for electors and candidates with disabilities.

1310

"2. The results of an independent survey of electors and candidates with disabilities on any barriers or difficulties experienced when taking part in the election.

"3. A summary of any complaints or feedback received from electors or candidates with disabilities during the election regarding the accessibility of the election and a summary of steps taken to address any complaints.

"4. Recommendations of any steps that need to be taken to ensure that the next election will be accessible to electors and candidates with disabilities."

If I may, by way of discussion: This again came directly from the disabled community. This will be the ultimate insurance that any difficulties that are met at the election in question will not be repeated in the following one because it will give an opportunity for each and every person, be they an elector or a candidate, to come forward and say what kind of barriers there were to them

having full participation, and will require the Chief Electoral Officer to answer that within a four-month period, and will require the Chief Electoral Officer to say what steps, if any, are being taken to remove them.

In a nub, this is the whole thing that the disability committee has gotten together for this time: to enunciate and to articulate what has gone wrong in the past. This would ensure that following every election, there would be an opportunity, and I'm sure, over time, a diminished set of things that have gone wrong to articulate so that people with disabilities have full electoral rights with those who do not have a disability.

I would ask for a recorded vote on this.

The Chair (Mr. Bas Balkissoon): Further questions or comments? Mr. Sorbara.

Mr. Greg Sorbara: Very quickly, those very principles have just been adopted in the approval of motion number 10 that was presented by the government, and therefore we won't be supporting this one.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested. I'll take—

Mr. Michael Prue: If I can, I don't think the same principles are there. This is a much stronger resolution than the one you put forward. This mandates and makes it, "He shall do all of the following," and, "It shall be on the Internet and such other means as possible." Yours doesn't contain this. This is much stronger and much better than the one that you put forward.

The Chair (Mr. Bas Balkissoon): I'll take the vote on 10.1.1. A recorded vote has been requested.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): The motion is lost. We'll move to motion 10.2, PC motion: Mr. Chudleigh.

Mr. Ted Chudleigh: I move that the bill be amended by adding the following section:

"25.3 The act is amended by adding the following section:

"Post-election review

"55.0.3(1) After every general election, the Attorney General shall appoint a person to conduct an independent review of this act in order to,

"(a) review complaints and other feedback from electors and candidates with respect to accessibility at the election;

"(b) review the reports made under section 55.1 with respect to the election;

"(c) review the findings of the Chief Electoral Officer's survey conducted under section 67.1; and

"(d) identify existing barriers to electors and candidates with disabilities and make recommendations for the removal of those barriers.

“Report

“(2) The person appointed to conduct the independent review shall, within one year after polling day in the general election, complete the review and submit a report to the Attorney General.

“Publication

“(3) The Chief Electoral Officer shall publish the report on a website on the Internet.

“Chief Electoral Officer’s pre-election plan

“(4) The Chief Electoral Officer shall review the report, consult with electors and with the leader of each registered party, and prepare a plan explaining how the barriers identified in the report will be addressed in future elections.

“Publication

“(5) The Chief Electoral Officer shall publish the plan on a website on the Internet, at least one year before polling day in the next general election held under subsection 9(2).”

I think a lot of the stimulant for a review of this particular act was due to various newspaper stories, anecdotal evidence and information that came in from a lot of different areas which stimulated the government to do a comprehensive review. I think if this amendment were in place, it would take it out of the hands of anecdotal evidence and formalize it in the form of a report by the Chief Electoral Officer to the Attorney General, whereby a logical and consistent process would be put in place to ensure that future elections continue to improve the process.

The Chair (Mr. Bas Balkissoon): Further questions or comments? There being none, I’ll take the vote on 10.2. All in favour? Against? That motion is lost.

Motion 10.3: NDP motion, Mr. Prue.

Mr. Michael Prue: This is much the same, so I expect the same results.

I move that the bill be amended by adding the following section:

“The act is amended by adding the following section:

“Independent review

“55.4(1) No later than four months after each of the 2011 general election and the 2015 general election, the Attorney General shall appoint a person to perform an independent review of the effectiveness of legislation in Ontario and any actions taken under that legislation to ensure that elections are accessible to voters and candidates with disabilities.

“Same

“(2) The person performing the independent review under subsection (1) shall consult with the public and in particular with persons with disabilities and shall make public a report on the results of the review within 9 months after his or her appointment.”

Just by way of argument, we are setting this out for simply the next two general elections. There will not be time, of course, with the government’s motion and what they have put forward and have voted on today, for much to take place in time for the 2011 election.

But this allows for a person to be appointed by the Attorney General to report on what has happened during that election and to make recommendations to the House. We think that nine months is sufficient time for the person performing the independent review to report.

A recorded vote, please.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, a recorded vote has been requested.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We’ll move to motion number 11: government motion, Mr. Zimmer.

Mr. David Zimmer: I move that section 74.1 of the Election Act, as set out in section 26 of the bill, be struck out and the following substituted:

“Recount conducted manually

“74.1 A recount that is made from the actual ballots shall be conducted manually, even if the original count was done by vote counting equipment.”

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I’ll take the vote on motion number 11. All in favour? Against? That motion carries.

Shall section 26, as amended, carry? Carried.

Shall section—

Mr. Greg Sorbara: Did you need do that for section 25.3?

The Chair (Mr. Bas Balkissoon): No, because it’s a stand-alone.

Mr. Greg Sorbara: Oh, it’s a stand-alone. I’m sorry. Okay.

The Chair (Mr. Bas Balkissoon): Shall section 27 carry? Carried.

The next motion is 11.1: PC motion, Mr. Chudleigh.

Mr. Ted Chudleigh: I move that paragraph 4 of section 91 of the Election Act, as set out in section 28 of the bill, be struck out and the following substituted:

“4. Having obtained a special ballot, knowingly attempting to vote at the election otherwise than by means of the special ballot.”

This motion inserts the word “knowingly” into the paragraph. As the paragraph is currently written, a person who accidentally attempts to vote otherwise than by special ballot may be imprisoned, which seems a little strong for someone who may be making an honest mistake.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I’ll take the vote on 11.1. All in favour? The motion carries unanimously.

Shall section 28, as amended, carry? Carried.

Shall section 29 carry? Carried.

Shall section 30 carry? Carried.

Shall section 31 carry? Carried.

We now move to motion number 12: government motion, Mr. Zimmer.

1320

Mr. David Zimmer: I move that the bill be amended by adding the following section:

“31.1 The act is amended by adding the following section:

““Accessible format

“114.3.1 Every report, direction or notice that this act requires the Chief Electoral Officer to publish shall be made available to persons with disabilities in a manner that takes their disabilities into account, in accordance with the Accessibility for Ontarians with Disabilities Act, 2005 and the regulations made under that act.”

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Chudleigh.

Mr. Ted Chudleigh: We'll support this. We still think this motion is a little vague and open to some interpretation, but we'll support it. We liked our motion better, but the government defeated it.

The Chair (Mr. Bas Balkissoon): Further comments? Questions?

There being none, we'll take the vote on government motion 12. All in favour? Against? Carried.

We'll now move to section 32, motion 12.0.1. Mr. Prue.

Mr. Michael Prue: I move that subsection 114.4(1) of the act, as set out in section 32 of the bill, be struck out and the following substituted:

“Studies by C.E.O.

“(1) The Chief Electoral Officer shall conduct one or more studies on methods of improving the voting process and facilitating voting by persons with disabilities.”

I think this is self-explanatory and self-evident. It instructs that the Chief Electoral Officer shall conduct the studies—one or more.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

There being none, we'll take the vote on motion 12.0.1. All in favour? Against? That motion is lost.

Motion 12.0.2, an NDP motion. Mr. Prue.

Mr. Michael Prue: I move that section 114.4 of the Election Act, as set out in Section 32 of the bill, be amended by adding the following subsection:

“Same

“(1.1) For the purposes of conducting a study mentioned in subsection (1), the Chief Electoral Officer shall investigate options for facilitating voting by persons with disabilities that have been undertaken in other jurisdictions, including the United States of America.”

If I may, by way of explanation, we know that when the Americans instituted the reform of their election process following the debacle of the hanging chads in Florida, they made sure that the disability community was widely consulted and used a lot of technology. Much of what is being requested by the AODAA is coming

from and has already been used in the United States, to some considerable effect. We are simply asking that the Chief Electoral Officer, when investigating options, look at other examples around the world, most notably from our neighbour to the south, which, over the last 10 years and a couple of elections, has had some considerable success. A recorded vote.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

There being none, a recorded vote has been requested.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll move to motion 12.0.3.

Mr. Michael Prue: I move that section 114.4 of the Election Act, as set out in section 32 of the bill, be amended by adding the following subsection:

“Studies to be made public

“(2.1) The results of a study mentioned in subsection (1) shall be made public.”

The Chair (Mr. Bas Balkissoon): Questions? Comments?

There being none, we'll take the vote on 12.0.3. All in favour? That motion carries.

We'll move to motion 12.0.4. Mr. Prue.

Mr. Michael Prue: I move that section 114.4 of the Election Act, as set out in section 32 of the bill, be amended by adding the following subsection:

“Funding for studies

“(2.2) The costs of funding a study mentioned in subsection (1) shall be paid out of funds appropriated for such purpose by the Legislature.”

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Michael Prue: If I may, somebody has to pay for it. It seems logical that the money come from the Legislature by way of budget rather than being taken out of the budgets of government departments or others. We very clearly have to say that this is a legislative initiative.

The Chair (Mr. Bas Balkissoon): Any further questions or comments?

There being none, we'll take the vote on motion 12.0.4. All in favour? Against? That motion is lost.

Motion 12.1, a PC motion. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that subsection 114.4(3) of the Election Act, as set out in section 32 of the bill, be struck out and the following substituted:

“Consultation

“(3) The Chief Electoral Officer shall ensure that every study conducted under this section includes consultation with electors.

“Publication

“(4) When a study has been conducted under this section, the Chief Electoral Officer shall publish a report about the study on a website on the Internet.”

The reasons for this motion are:

It removes the repeal of this section in 2015. Currently, this section does not require the Chief Electoral Officer to conduct a study, but this motion leaves the option open for him or her to do so. It responds to our rapidly changing environment and the possibilities of what may be required in the future. It replaces the existing subsection (3) with new subsections (3) and (4), which, like previous PC motions, require public consultation and improved accessibility by requiring that the study is published on Election Ontario's website.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

There being none, we'll take the vote on motion 12.1. All in favour? Against? That motion is lost.

Shall section 32, as amended, carry? Carried.

Shall section 33 carry? Carried.

Shall section 34 carry? Carried.

The next motion, 12.2—it's been withdrawn?

Mr. Ted Chudleigh: It's been withdrawn.

The Chair (Mr. Bas Balkissoon): We'll move to motion 13, a government motion. Mr. Zimmer.

Mr. David Zimmer: Just a second. Let me get caught up.

Okay, here we go, folks. Are you ready?

I move that section 25.1 of the Election Finances Act, as set out in section 35 of the bill, be struck out and the following substituted:

“Electronic database for recording contributions and issuing receipts

“25.1(1) Each registered party shall maintain an electronic database that,

“(a) allows the chief financial officers of the party and of its registered constituency associations and registered candidates to record all contributions received; and

“(b) allows the chief financial officer of the party to issue receipts generated from the electronic database.

“Recording of contributions

“(2) The chief financial officer of a registered party is responsible for ensuring that all contributions received by the party are recorded in the party's electronic database.

“Same

“(3) The chief financial officer of a registered constituency association is responsible for ensuring that all contributions received by the association are recorded in the party's electronic database.

“Same

“(4) The chief financial officer of a registered candidate who is not an independent candidate is responsible for ensuring that all contributions received by the candidate are recorded in the party's electronic database.

“Issuing of receipts

“(5) The chief financial officer of a registered party is responsible for ensuring that receipts generated from the electronic database, whether in paper form or electronic

form, are issued for all contributions received by the party and by its registered constituency associations and registered candidates.

“Same

“(6) The chief financial officers of registered constituency associations and registered candidates shall not issue receipts for contributions, and subsection 25(1) and clause 33(4)(c) do not apply to them.

“Cancellation of receipts

“(7) The chief financial officer of a registered party shall, immediately on receiving the Chief Electoral Officer's request to do so, cease issuing receipts for contributions.

“Application rules

“(8) The following rules apply to a registered party on and after June 1, 2012:

“1. The party must comply with subsection (1).

1330

“2. The chief financial officer of the party must comply with subsection (2).

“3. The chief financial officers of the party's registered constituency associations must comply with subsection (3).

“4. The chief financial officers of the party's registered candidates must comply with subsection (4).

“5. The chief financial officer of the party must comply with subsection (5) in relation to contributions received on or after June 1, 2012.

“6. Subsection (6) applies to the chief financial officers of the party's registered constituency associations.

“7. Subsection (6) applies to the chief financial officers of the party's registered candidates.

“8. Subsection (7) applies to the chief financial officer of the party.

“Role of Chief Electoral Officer

“Guidelines

“25.2(1) The Chief Electoral Officer shall provide such guidelines as he or she considers necessary for electronic databases that are maintained for the purposes of section 25.1.

“Same

“(2) Without limiting the generality of subsection (1), the guidelines shall deal with ensuring that,

“(a) the information in the electronic database is accurate;

“(b) the chief financial officer of the registered party has the ability to verify the information in the electronic database; and

“(c) the information in the electronic database is capable of being audited.

“Publication

“(3) The Chief Electoral Officer shall publish the guidelines in the Ontario Gazette and on a website on the Internet.

“Timing

“(4) The Chief Electoral Officer shall publish the first guidelines under (3) on or before January 1, 2011.

“Assessment

“(5) The Chief Electoral Officer shall assess each electronic database that is maintained for the purposes of section 25.1 and, if satisfied that the electronic database complies with the guidelines and with this act, shall approve it.

“Approval

“(6) The chief financial officer of a registered party shall ensure that,

“(a) the party’s electronic database receives the Chief Electoral Officer’s approval before being launched; and

“(b) any material changes to the party’s electronic database receive the Chief Electoral Officer’s approval before being launched.

“Compliance

“(7) The Chief Electoral Officer shall advise and work with the chief financial officers of registered parties to promote compliance with section 25.1 and with subsection (6) of this section.

“Opting in before June 1, 2012

“25.3 If a political party is registered under this act on June 1, 2011 or becomes registered under this act on or before May 31, 2012, the chief financial officer of the party may opt for early compliance at any time during the period that begins on June 1, 2011 and ends on May 31, 2012, in accordance with the following rules:

“1. The chief financial officer may give the Chief Electoral Officer written notice of one of the following:

“i. the party, its registered constituency associations and its registered candidates will comply with section 25.1,

“ii. the party and its registered constituency associations, but not its registered candidates, will comply with section 25.1,

“iii. the party and its registered candidates, but not its registered constituency associations, will comply with section 25.1, or

“iv. the party, but not its registered candidates and registered constituency associations, will comply with section 25.1.

“2. If the chief financial officer gives a notice described in paragraph 1,

“i. the chief financial officer shall ensure that the party’s electronic database receives the Chief Electoral Officer’s approval before being launched, and

“ii. on and after the effective date set out in the notice, the chief financial officer shall ensure that any material changes to the party’s electronic database receive the Chief Electoral Officer’s approval before being launched.

“3. If the chief financial officer gives the notice described in subparagraph 1 i,

“i. paragraphs 1, 2, 3, 4, 6, 7 and 8 of subsection 25.1(8) apply on and after the effective date set out in the notice, and

“ii. the chief financial officer must comply with subsection 25.1(5) in relation to contributions received on or after the effective date.

“4. If the chief financial officer gives the notice described in subparagraph 1 ii,

“i. paragraph 1 of subsection 25.1(8) applies on and after the effective date set out in the notice, except that

the party’s electronic database need not allow the chief financial officers of registered candidates to record contributions,

“ii. paragraphs 2, 3, 6 and 8 of subsection 25.1(8) apply on and after the effective date set out in the notice, and

“iii. the chief financial officer must comply with subsection 25.1(5) in relation to contributions received by the party and by its registered constituency associations on or after the effective date.

“5. If the chief financial officer gives the notice described in subparagraph 1 iii,

“i. paragraph 1 of subsection 25.1(8) applies on and after the effective date set out in the notice, except that the party’s electronic database need not allow the chief financial officers of registered constituency associations to record contributions,

“ii. paragraphs 2, 4, 7 and 8 of subsection 25.1(8) apply on and after the effective date set out in the notice, and

“iii. the chief financial officer must comply with subsection 25.1(5) in relation to contributions received by the party and by its registered candidates on or after the effective date.

“6. If the chief financial officer gives the notice described in subparagraph 1 iv,

“i. paragraph 1 of subsection 25.1(8) applies on and after the effective date set out in the notice, except that the party’s electronic database need not allow the chief financial officers of registered constituency associations and registered candidates to record contributions,

“ii. paragraphs 2 and 8 of subsection 25.1(8) apply on and after the effective date set out in the notice, and

“iii. the chief financial officer must comply with subsection 25.1(5) in relation to contributions received by the party on or after the effective date.

“Exemption, 50 per cent threshold

“25.4(1) Subsections (2) and (3) apply to a registered political party that has not, in the 2007 general election or in any subsequent general election, had official candidates in 50 per cent or more of Ontario’s electoral districts.

“Same

“(2) Section 25.1 does not apply in respect of the party unless the party’s chief financial officer opts for compliance under section 25.3 or under subsection (3) of this section.

“Opting in on and after June 1, 2012

“(3) The chief financial officer of the party may, at any time from June 1, 2012 onwards, opt for compliance by giving the Chief Electoral Officer written notice that the party will comply with section 25.1.

“Loss of exemption

“25.5 On and after the first anniversary of polling day in any general election in which a registered political party has official candidates in 50 per cent or more of Ontario’s electoral districts for the first time,

“(a) section 25.4 no longer applies to the party; and

“(b) section 25.1 applies to the party.”

The Chair (Mr. Bas Balkissoon): Further comments? Mr. Sorbara.

Mr. Greg Sorbara: This is perhaps an historic amendment that we are considering here today and hope to pass and approve and make part of our election financing system. Simply stated, we are moving out of the 19th century of receipting in the way in which we have for decades and decades in our political parties, with those official forms that come out of Elections Ontario and need to be numbered and catalogued and sent out before income tax time, to a modern system of centralized electronic receipting.

1340

In the select committee's work and in discussions, the view has been that it's high time that we catch up to most charitable organizations, who are able to receive donations online and provide virtually instantly a receipt for the donation made. That's where we're moving, finally, in Ontario amongst our political parties.

While the amendment itself is complicated and contains lengthy provisions, the framework is being put into place so that each political party can move in that direction, beginning on June 1, 2011, and there is an expectation that all political parties of size will comply by 2012. This has been not without a little bit of controversy, but as someone who has been involved in political parties for perhaps too long, I think this is a wonderful advancement. Those of us who are concerned about the machinery of our parties will have much better machinery once this provision is implemented and political parties begin to comply with it.

The Chair (Mr. Bas Balkissoon): Questions? Comments? Mr. Chudleigh.

Mr. Ted Chudleigh: This may move the member's title out of the "archaic" label that we had on last week.

I think other than that, dare I say the amendment speaks for itself—and it speaks at some length.

Mr. Michael Prue: Yes, he has made it all the way to antediluvian.

The Chair (Mr. Bas Balkissoon): Okay, we'll take the vote on motion 13. All in favour? The motion carries. Shall section 35, as amended, carry? Carried.

Shall section 36 carry? Carried.

Shall section 37 carry? Carried.

Shall section 38 carry? Carried.

The next motion is 13.1, an NDP motion.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"Regulations, accessibility

"118. The Lieutenant Governor in Council shall make regulations on or before January 1, 2013 in respect of anything referred to in this act that is in respect of accessibility for persons with disabilities and that is referred to as being prescribed or as otherwise dealt with in the regulations."

By way of explanation, the important date is January 1, 2013, to ensure that the subsequent election—not this one coming up, but the subsequent one—is well understood and that the regulations are in place well in advance so that people have an opportunity to understand them and to ensure that they are going to help, in the greatest possible way, the disability community.

The Chair (Mr. Bas Balkissoon): Questions, comments? There being none, just a small correction in the voting procedure. My sheets here had a slight error. I need to take a vote on section 39. Shall section 39 carry? Carried.

Now we'll take the vote on motion 13.1. All in favour? Against? The motion is lost.

We'll move to section 40, government motion 14: Mr. Zimmer.

Mr. David Zimmer: Just bear with me one moment, Chair.

Clerk, if I may, on my sheet I have government motion 14, but I also have a government motion 14R, or revised.

The Clerk of the Committee (Ms. Tonia Grannum): You should move, if you wish, 14RR. That's the replacement to the replacement. Then you can withdraw, if you wish, 14R and page 14.

The Chair (Mr. Bas Balkissoon): So move RR first—

Mr. David Zimmer: Just a second.

Mr. Michael Prue: I don't believe I've been given a copy. Did I have it in this mess somewhere?

The Chair (Mr. Bas Balkissoon): It's in your package.

Mr. Greg Sorbara: Now, don't blame the clerk for your mess.

Mr. Michael Prue: No, no. I didn't blame her.

Mr. Greg Sorbara: Your mess is your own responsibility.

Mr. Michael Prue: I would never blame the clerk.

Mr. David Zimmer: Madam Clerk, do I read in the revised one?

The Clerk of the Committee (Ms. Tonia Grannum): The 14RR.

Mr. David Zimmer: Thank you.

I move that section 40 of the bill be struck out and the following substituted:

"Commencement

"40.(1) Subject to subsections (2) and (3), this act comes into force on the day it receives royal assent.

"Same

"(2) Subsections 3(2) and 23(2) and sections 25 and 28 come into force on July 1, 2011.

"Same

"(3) Section 23.1 comes into force on January 1, 2012."

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I'll take the vote on—Mr. Prue?

Mr. Michael Prue: This may be a little open-ended in terms of when a bill comes into force, on the day it receives royal assent. Royal assent, as we all know, is signed by the Lieutenant Governor, but it's done on the advice of the government, and many bills pass and wait sometimes years before they actually get royal assent. Is there some kind of commitment for the government that this will happen on or before the other two dates that are mentioned in the bill, January 1, 2012, and/or July 1, 2011? Just when can we expect this? I'm just nervous

that we pass it and the government never brings it forward for royal assent.

Mr. Greg Sorbara: Mr. Chair, I think my friend raises a technically valid issue. The fact is that we do not anticipate any undue delay in the proclamation of royal assent for this bill. So although I cannot give you a specific time frame, suffice it to say that the government, this party, our caucus, your party and the Conservative Party have all worked very hard on this bill and we would expect royal assent within a very reasonable time.

Mr. Michael Prue: Thank you very much.

The Chair (Mr. Bas Balkissoon): We'll take the vote on motion 14RR. All in favour? The motion carries.

Motion 14R: Mr. Zimmer, you're withdrawing that?

Mr. David Zimmer: Withdraw.

The Chair (Mr. Bas Balkissoon): Motion 14: Are you also withdrawing that?

Mr. David Zimmer: Withdraw.

The Chair (Mr. Bas Balkissoon): PC motion 15.

Mr. Ted Chudleigh: Given the passing of the last amendment, this one is redundant, so we would withdraw it, other than to pass on a thank you for all those who attended and made deputations to the committee.

Interjections.

Mr. Michael Prue: We're not even finished.

The Chair (Mr. Bas Balkissoon): We've got to go back.

Mr. Ted Chudleigh: Oh, that's right. We've got all this other stuff to clear up. I may not be here long.

The Chair (Mr. Bas Balkissoon): We'll take the vote on section 40, as amended. Shall it carry? Carried.

Shall section 41 carry? Carried.

We'll now go back to 7.1.

Interjection.

The Chair (Mr. Bas Balkissoon): Mr. Prue wanted 7.1 first.

Mr. Michael Prue: No.

The Chair (Mr. Bas Balkissoon): You're okay?

Mr. Michael Prue: I'm happy to go back to—

The Chair (Mr. Bas Balkissoon): Do you want to go right to the first one that we put on hold?

Okay: motion 6.7.

It's a PC amendment. Mr. Chudleigh.

Mr. Ted Chudleigh: I move that paragraph 2 of subsection 44.1(7) of the act, as set out in subsection 23(1) of the bill, be struck out and the following substituted:

"2. The equipment may be part of or connected to an electronic network and may use telephone or other technologies."

1350

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, I'll take the vote on motion 6.7. All in favour? Against? The motion does not carry.

We'll move to 6.7.1: NDP motion, Mr. Prue.

Mr. Michael Prue: I move that paragraph 2 of subsection 44.1(7) of the Election Act, as set out in subsection 23(1) of the bill, be struck out.

The rationale for this motion is that it would allow for a stronger motion to be substituted.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Ted Chudleigh: It's similar to ours.

The Chair (Mr. Bas Balkissoon): There being none, we'll take the vote. All in favour? Against? The motion is lost.

We'll now move to 6.11.1: NDP motion, Mr. Prue.

Mr. Michael Prue: That's 6.11.1?

The Chair (Mr. Bas Balkissoon): Yes.

Mr. Michael Prue: I move that paragraph 7 of subsection 44.1(7) of the Election Act, as set out in subsection 23(1) of the bill, be struck out.

By way of discussion, if I may, this is similarly to strike out this section so that a stronger motion can be substituted—more in line with what the disability community has requested.

The Chair (Mr. Bas Balkissoon): Questions? Comments? There being none, we'll take the vote on 6.11.1. All in favour? Against? The motion does not carry.

We'll now move to 6.14.1: NDP motion, Mr. Prue.

Mr. Michael Prue: I move that section 44.1 of the Election Act, as set out in subsection 23(1) of the bill, be amended by adding the following subsection:

"Consultation after use of equipment

"(9.1) When accessible voting equipment and related vote counting equipment are used in an election under this section, the Chief Electoral Officer shall consult with persons with disabilities after the election and make public the nature of the comments received and any proposed changes to be made with respect to the equipment as a result of the consultation."

If I may, by way of discussion, this, I think, is self-explanatory. But also, this mandates that the Chief Electoral Officer shall—it's not promissory; it is mandatory—consult with persons with disabilities about the nature of the machines and how the machines worked, and shall make the proposed changes to the equipment—not necessarily to the laws but to the equipment—so that it can be better utilized in the future.

We think that this is something that the disabilities committee has recommended, and certainly, all persons who came forward who have had any difficulties with machines asked that we revisit the issue of those machines and how they might be made to work better, or better, cheaper, or more effective machines might be utilized. That's what this is intending to do.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Michael Prue: On a recorded vote, please.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested. I'll take the vote on 6.14.1.

Ayes

Chudleigh, Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): The motion does not carry.

Shall section 23, as amended, carry? Carried.

We'll now go to motion 7.1: NDP motion, Mr. Prue.

Mr. Michael Prue: This is 7.1R?

The Chair (Mr. Bas Balkissoon): Just one second. *Interjection.*

The Chair (Mr. Bas Balkissoon): Motion 7.1R: Everybody has a copy? Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"23.1 The act is amended by adding the following section:

"Alternative voting technologies

"44.2(1) The Chief Electoral Officer shall conduct a review of two or more alternative voting technologies, prepare a report of the review and, on or before June 30, 2012, submit the report to the Speaker of the assembly.

"Recommendations

"(2) The report shall include the Chief Electoral Officer's detailed recommendations with respect to the use of each alternative voting technology that is reviewed.

"Role of the standing committee

"(3) The Standing Committee on the Legislative Assembly shall hold public hearings into the report and shall, on or before December 31, 2012, determine whether any of the alternative voting technologies are appropriate for use in Ontario elections.

"Use of technology in elections, 2013 and 2014

"(4) If the committee determines that an alternative voting technology is appropriate for use in Ontario elections, the Chief Electoral Officer shall ensure that it is made available at all elections during 2013 and 2014.

"Application of s. 44.1

"(5) Section 44.1 applies, with necessary modifications, with respect to the alternative voting technology and the elections in which it is to be used."

If I could, by way of explanation: The motion is put forward after consultation with the AODAA. We are mindful of the government's motion which will follow, which is 7.1.1, but feel that it is very much restrictive.

A couple of major things that we think make this better than the government motion: It involves the review. It sets out the review date, by June 30, 2012, which the government motion does not do; and it empowers the Standing Committee on the Legislative Assembly to hold public hearings and the standing committee, not the Chief Electoral Officer, to determine whether any of the alternative voting technologies are appropriate. You will see, in the government motion that follows, the standing committee can only adopt the Chief Electoral Officer's report without modification, so we would be virtually a rubber stamp. This would ensure that the standing committee would do the work we have been doing over these last few weeks, and that we are, after all, answerable to the public, to the people and to the electors, whereas the Chief Electoral Officer, with all respect to him, is not.

The third thing I think that it does is that it allows the committee to determine whether or not an alternative voting technology is appropriate, which the government prefers to leave to one person; we think that this should be an all-party recommendation.

We are moving the motion upon the advice of many of the people here in this room that this is a better solution in the long term to their past grievances. Certainly, their accessibility into this committee is legions ahead of what their accessibility has been through the bureaucracy of Elections Ontario.

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Mr. Greg Sorbara: We're coming to an end, and we have one last major provision to deal with that will be contained in the government amendment.

I know that my friend has worked very hard on this, and he has come a long way in preparation for this, in preparation for these considerations. I'm advised about his comments in the springtime, back in 2007, about the foolhardiness of Internet voting. I've had some concerns as well. This act, right from the beginning of the select committee, has seen its mission as modernization and a little bit of housecleaning as well.

The fact is that, as I said earlier, we've made terrific progress together in accommodating a community that we all acknowledge has not been served all that well in the past, so we're making these advances.

My friend is going to ask for a brief recess. I want to consult with my friends on the other side about one final little friendly amendment. While we will not be supporting Mr. Prue's amendment, I want to say that I understand his firm dedication to the constituency on whose behalf he's arguing.

The Chair (Mr. Bas Balkissoon): Further comments or questions? None? We'll take the vote on 7.1R.

Mr. Michael Prue: On a recorded vote.

Ayes

Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): Mr. Prue, 7.1 is withdrawn?

Mr. Michael Prue: It is withdrawn.

Interjection.

The Chair (Mr. Bas Balkissoon): Oh, sorry; I didn't announce the vote? That motion does not carry.

We'll withdraw 7.1. We'll go to government motion 7.1.1. Mr. Zimmer.

Mr. David Zimmer: Chair, I'd like to ask for a five-minute recess.

The Chair (Mr. Bas Balkissoon): We'll take a five-minute recess; we'll be back here at five after 2.

The committee recessed from 1400 to 1407.

The Chair (Mr. Bas Balkissoon): We'll reconvene. We're at 7.1.1, a government motion. Mr. Zimmer.

Mr. David Zimmer: Yes, back to the script here. Could I just get some guidance from the Chair? Chair, I just want to do an editorial amendment to a word in the—

The Chair (Mr. Bas Balkissoon): You want to revise it?

Mr. David Zimmer: Yes. How do I do that, Madam?

The Clerk of the Committee (Ms. Tonia Grannum): Are you amending the amendment?

Mr. Greg Sorbara: Well, we have agreement with the other two parties. It's a friendly amendment to change a couple of words. Shall we give you the new wording up there—pass it up to you?

The Clerk of the Committee (Ms. Tonia Grannum): No, if you read it and identify where—

The Chair (Mr. Bas Balkissoon): Just read it in.

Mr. Greg Sorbara: Right. Okay, good.

Mr. David Zimmer: Okay. Thank you. So we're on 7.1.1.

I move that the bill be amended by adding the following section:

“23.1 The act is amended by adding the following section:

“‘Use of alternative voting method

“44.2(1) At an election, if the following conditions are satisfied, the Chief Electoral Officer may direct that an alternative voting method, which may be an electronic voting method, be used:

“1. The alternative voting method has been tested by being used at a by-election under section 4.1 and a report has been made to the Speaker of the assembly under that section.

“2. The Chief Electoral Officer is satisfied that the alternative voting method protects the security and integrity of the section to a standard that is”—

The Chair (Mr. Bas Balkissoon): Of the section or the election?

Mr. David Zimmer: —“the security and integrity of the election to a standard that is equivalent to the protection afforded by section 44.1.”

That's the change to—

The Clerk of the Committee (Ms. Tonia Grannum): You're changing it—

Mr. David Zimmer: Following “to a standard that is,” strike out “equal,” replace with the word “equivalent,” and then it continues to read “to,” and strike out “or better than,” and it picks up at “the protection afforded by section 44.1.”

Can you just read that back and make sure we've all—

The Clerk of the Committee (Ms. Tonia Grannum): Sure. “The Chief Electoral Officer is satisfied that the alternative voting method protects the security and integrity of the election to a standard that is equivalent to the protection afforded by section 44.1.”

Mr. David Zimmer: Yes. Moving on:

“3. The Chief Electoral Officer has consulted, with registered parties, with electors and with experts on the

subject of voting methods, about the alternative voting method, the test under section 4.1 and its results.

“4. The Chief Electoral Officer has recommended the use of the alternative voting method at the election.

“5. The Standing Committee on the Legislative Assembly or another standing or select committee of the assembly has held public hearings into the Chief Electoral Officer's recommendation and approved it without modification.

“Direction

“(2) The Chief Electoral Officer's direction shall,

“(a) describe the alternative voting method in detail;

“(b) refer to the provisions of this act that will not be complied with, and specify the nature and extent of non-compliance in each case; and

“(c) identify the day or days on which the alternative voting method will be available in the election.

“Notice

“(3) The Chief Electoral Officer shall

“(b) provide copies of the direction to the leader of each registered party and to every candidate who has been nominated; and

“(c) publish the direction on a website on the Internet.

“General election

“(4) At a general election, the alternative voting method shall be made available in every electoral district.

“Report

“(5) When an alternative voting method is used at an election in accordance with this section, the Chief Electoral Officer shall include a report on the matter,

“(a) in any report that the Chief Electoral Officer makes with respect to that election; or

“(b) in the next annual report made under section 114.3.”

The Chair (Mr. Bas Balkissoon): Questions? Comments?

Ms. Sylvia Jones: Just one comment: Because there is no reference in this amendment to accessibility, it is possible that these alternative voting methods would do nothing in terms of making the alternative voting method more accessible. I'm just wondering why the word “accessible” was left out.

Mr. Greg Sorbara: I think the place of the amendment and the way in which it comes into operation under the act makes it perfectly clear that this is all about dealing with allowing the Chief Electoral Officer to explore other means of accessible voting and to do so in a way that does not at this point commit, to be frank, the government to a form of Internet voting but allows that to be investigated and then come before a committee of the Legislature for approval or rejection. While I understand my colleague's concern, the whole thrust of this is about capacity to develop technologies that enhance the accessibility of voting for the disabled community.

Ms. Sylvia Jones: One other question: On page 2, when you make reference to “Notice”—it's 3(b) and (c)—is that accurate or should it be (a) and (b)?

Ms. Cornelia Schuh: It should be (a) and (b). That's a clerical error that will be corrected.

Mr. Greg Sorbara: Very good.

Ms. Sylvia Jones: That's what we're here for.

Mr. Greg Sorbara: No matter how much work you do, there are always clerical errors.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: Just to speak on this, I cannot help but respond to what my friend said, that I have come such a long way in terms of Internet voting. The fact of the matter is that I have not come a long way, but the technology has. That's the fundamental difference.

When I spoke in 2007, that was very soon after I was the victim of identity fraud. I will tell you, the people who can hack into a computer can find out a lot about you and can take some considerable advantage with it. You don't have to be the victim of such fraud to understand how much a person who knows how to use a computer effectively for illegal purposes can hack in, find out, substitute themselves for you and do things that the whole world thinks you are doing.

I am satisfied, over the last three or four years since I was a victim, that the technology has come such a long way that I no longer am afraid to go on the computer and to have personal details put on there, because I am satisfied that banks, government institutions and the like, with whom I trust that kind of information, are now much more careful with it and have the ways to safeguard against its abuse.

If you want to know what I said in 2007 and try to hold this up that I have moved my position—not really. I am still very mindful that people, improperly motivated, can do this kind of thing. But I am also much more mindful and support the fact that those who are involved in the making of technology and keeping it honest have come even further so that I am willing to take that kind of step.

Just for the record, that's what motivated 2007 and that's what motivates me today—that it's somewhat different.

Mr. Greg Sorbara: Well, I think my friend's comments ironically argue for the wisdom of the provisions that we've put forward here today, and let me tell you why: You're right about—and I remember you talking about the humiliating, awful experience of identity theft.

Mr. Michael Prue: You remember that speech, do you?

Mr. Greg Sorbara: I didn't memorize it. I tried to, but it was very complicated, and it just didn't work.

The fact is that with each advance in security and technology and communications link-ups, there is that small, crazy crowd out there that is always trying to break the code, no matter what you do. I mean, we just recently heard about the supposedly most secure systems in a number of sovereign nations being hacked and the information that was stolen being marketed around the world. As our security measures advance, the sophistication and the intelligence of the hacker advances as well. What we're doing here is saying that we need to allow the Chief Electoral Officer to do the investigation.

But because this is voting and because we have a very strong tradition of secure voting in Ontario, we need to be satisfied, in a world where hackers will hack, that the security systems are—not any more equal to or better than, but equivalent, and that really means that you, sir, and the rest of us in this Legislature responsible for this legislation are satisfied that if the CEO is proposing that we move in that direction, he is telling us at the same time that he is satisfied that the security of the system will not be compromised. That's what this debate has been from the beginning.

1420

I think that we've come to a reasonable landing. I actually believe that in the future, we will see systems develop that will be welcomed by and satisfactory to the communities that have been asking for this for quite some time. I think probably we'll see that by 2015. That may lead to a very different world in how we elect people over the course of the next general elections four, eight, 12 and 16 years from now. But our responsibility in government is—not to usurp the position of my friends opposite—to be conservative, to make sure in this area not only that we allow for the development of the new technologies but also that that principle of security of the vote is not compromised in any way.

We've been working on this section for the past several weeks, coming right up to today's clause-by-clause analysis, where my friend David Lepofsky said, "Could we just change this a little bit?" The concern was "equal or better than" and maybe that's too high a threshold. On the government side, we said, "Maybe you have a point." So I'm happy that my friends on the other side agree to the friendly amendment.

Just to cut this speech short, I think that the work that has been done with the other parties, with the AODAA and all of their representatives has been just an absolute model for the consideration of legislation in this parliament and in this province.

Mr. Michael Prue: If I could continue, because I was in the middle of my speech—but I thank you for the intervention.

What I still find problematic with these two pages are the words in section 5. "The Standing Committee on the Legislative Assembly or other standing or select committee of the assembly has held public hearings into the Chief Electoral Officer's recommendation and approved it without modification."

There are two problems with this. Number one is that people who come to make deputations generally do not have the same kind of access to the Chief Electoral Officer or, indeed, anyone in the bureaucracy as they do to parliamentary, standing or select committees. Every single standing committee to which I have been a party in the last eight years goes on at least the Internet; the television, on the parliamentary channel; usually to the newspapers; and sometimes in other forms of advertisement to key stakeholder groups and tells them to come out and make comment. This does not happen and probably will not happen to the Chief Electoral Officer. He is

under no such obligation to do that. Therefore, the people who have come here in great numbers have come here by a process which the standing committee allows. We hear much greater input than any bureaucrat will ever hear.

I mean no umbrage to Chief Electoral Officer, Mr. Essensa. I was on the board that hired him. I'm proud I hired him. He's doing a good job. I hired him at Toronto before here. The same guy, I hired him twice. He's doing a good job. No umbrage on him, but it's not the same as coming before a parliamentary legislative committee.

The second thing is that the committee itself will be rendered nearly powerless. We can either say "yea" or "nay," but we cannot make a modification. I think that that is an affront to the parliamentary process. We are elected as parliamentarians to reflect the views of the people of Ontario and particularly our own constituents. We are supposed to have free rein to make the laws, to make the recommendations and to have those recommendations go back before the Legislature. That ought not to be given to a single individual that we merely agree with or don't.

We sat here today, and a number of amendments, albeit it only one terribly minor one of mine, were accepted by the government. Some seven or eight of the Conservative ones were accepted. That is the role of the opposition: to point out to you, to the government, why these amendments are necessary and how they're going to improve the bill. It is not up to Mr. Essensa, any other bureaucrat or any other person to say what ought to happen and what ought to go before the Legislature.

For you and the government to truncate a committee, to truncate the future responsibilities of a committee of duly elected people, I think is terribly inappropriate and wrong. We then give up the responsibility we have to make the laws to someone else, and all we become are mere rubber stamps to say yes or not.

I don't understand why the government is doing this. I honestly do not understand. We are doing a disservice to the disabled community and to all electors, and we are doing a disservice to this Legislature and to ourselves. I don't understand. I can't be party to that.

I just want to close, because my friend did as well, to say how very proud I am of Mr. Lepofsky and all the others who have come forward from the AODA Alliance and all the other organizations. It seems to me that when we started out, there was very little in here about disability issues. When we finished, the whole thing, almost, was about disability issues. Inasmuch as you've been heard, I guess, things are good. Inasmuch as you got your wishes, I'm not sure they're as good as my friend is pretending. I think we had an obligation to go further than where it appears the government is willing to go.

I, for one, believe that in the 21st century, people with disabilities ought to be treated the same as everyone else. The time has come and gone, and is long past, thankfully, when a person with disability doesn't have the same rights. We could have, and should have, extended every single right that a sighted, a non-hearing-impaired, a mobile person who doesn't use a scooter, or any other

disability you can think of—we should have come to the point in acknowledging that whatever assistive device is necessary has to be given. That should have been in this legislation. I would tell you I'd be much prouder if I was going into the 2011 election having that in place than waiting for another four years.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: No long speech, I promise, but I do support fully what my NDP colleague is saying about the fact that we're going through the public process of putting it to a Legislative Assembly committee or a select committee, and public hearings, yet not allowing them to make recommendations based on the input they receive. It seems to me a very unusual section to be put into legislation. I've never seen it done in other circumstances. I don't see the value in going through a public process where you ask for input and then you don't have the ability to actually input it.

Many presenters and people around the table have talked about how different Bill 231 is now than when it was introduced initially. To me, that is as a result of the public input and consultation that occurred. And yet, by point 5 in this amendment, we would not be allowed to have that same access for input, and improvement, quite frankly.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara.

Mr. Greg Sorbara: I wasn't going to answer. I was at the beginning of my speech as well, but I thought I'd better cut it off there. Both of my friends have—

Laughter.

Mr. Greg Sorbara: Oh.

I was also going to tell the story about running into John Rae outside Massey Hall. We were both on our way in to the Canadian Songbook. I see him here today. He has been such a strong advocate. We had a great laugh then. I don't think either of us realized that a year later we would still be working on this bill. He has made a real contribution to its amendments.

I need to speak to section 5. This in no way constrains the ability of Parliament and the ability of government to make laws and regulations. This is a simple, neat, effective process that has the CEO, the Chief Electoral Officer, investigate, test, and develop electronic systems and then bring them before a committee for consideration.

I think that is actually great wisdom, rather than turning it into a kind of a political battle, just to have a committee say, "Yes, we like it," or, "No, we don't like it." It may well be that at that time, the government says, "Well, we want to have that, and we want to have it in an amended form." That would give rise to a bill introduced in Parliament, and it would go through the process. But rather than elongating this committee process just on this one section, I think the wisdom here is for all of the work to be done.

1430

Frankly, sir, you know how this happens. There's a great deal of consultation before those public hearings as to whether or not this is the right process, an effective

process. And rather than giving it over to a long and protracted political debate, we have an opportunity to look at it in this Standing Committee on the Legislative Assembly and say, "Yes, we want to go forward with that," or, "No, frankly, we don't want to go forward with that."

I reject the notion that somehow Parliament, in its ability to make laws and rules, is constrained. I think there is great wisdom in this section, and I hope my friends would reconsider their opposition to it.

The Chair (Mr. Bas Balkissoon): Okay, I will take the vote on the amended portion to section 2.

Mr. Michael Prue: Recorded vote, please.

Mr. David Zimmer: So we're voting on the amendment? That's the change of the words?

The Chair (Mr. Bas Balkissoon): On the strikeout and the replacement.

The Clerk of the Committee (Ms. Tonia Grannum): It's on the amendment to the motion.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the amendment to the motion.

Ayes

Dickson, Jones, Mangat, Naqvi, Prue, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That carries. Now I'll take the vote on motion 7.1.1, as amended. All in favour? Against? That motion carries.

Mr. Michael Prue: I did ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): You want it recorded? Okay, once again.

Ayes

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

Nays

Jones, Prue.

The Chair (Mr. Bas Balkissoon): That motion carries, as amended.

We'll now move to motion 7.2. Mr. Prue.

Mr. Michael Prue: I found 7.2.1.

The Clerk of the Committee (Ms. Tonia Grannum): It's in the original package.

Mr. Michael Prue: Oh, let's go back.

Mr. Greg Sorbara: You may just want to drop it—I'm just kidding.

Mr. Michael Prue: Just let me read it and I'll tell you.

Mr. Greg Sorbara: Go ahead.

Mr. Michael Prue: No, I don't want to withdraw this; this is a good one.

I move that the bill be amended by adding the following section:

"23.2 The act is amended by adding the following section:

"Accessibility report, polling places

"44.3(1) The Chief Electoral Officer shall,

"(a) make public, by publishing on a website on the Internet and by other means, not less than six months before the date fixed for an election, the proposed locations for polling places and specific steps taken to ensure accessibility;

"(b) invite the public to comment on whether the proposed locations are sufficiently accessible;

"(c) establish and widely publicize an elections accessibility telephone hotline during the six month period before and during voting day for electors and candidates with disabilities to comment on the proposed locations and to comment on any accessibility problems;

"(d) review the proposed locations in light of comments received and make a final determination of the location of polling places, not later than 60 days before the election; and

"(e) publish the determination made under clause (d) on a website on the Internet and by other means.

"Same

"(2) If the Chief Electoral Officer decides not to change the location of a proposed polling place despite objections to it having been received on grounds of accessibility, he or she shall forthwith make public the reasons for refusing to alter the location by publishing the reasons on a website on the Internet and by other means.

"Appeal

"(3) A person who objects to the location of a proposed polling place on the grounds of accessibility concerns and who lodges a timely complaint with the Chief Electoral Officer about the proposed location may appeal the refusal to alter the location in the manner prescribed by the regulations."

By way of argument, I think that it's mostly self-explanatory. This is an opportunity for those who particularly are constrained in mobility—who are required to attend in a wheelchair, a scooter or by some other means where it is difficult to go down flights of stairs or the like—to have a look and to see whether or not the polling place is accessible. A casual walk by it—many times, to the trained eye, one who is wheelchair- or otherwise dependent can often see things that many people who are not mobility-dependent would simply miss: a lip, a step, the inaccessibility of an elevator during certain periods, all kinds of things. I think this was amply illustrated by some of the people who were here before us, including the gentleman who had to be carried down stairs to vote in the by-election in Toronto Centre, and others who talked about being unable to vote and unable to access unless they did so with great duress, a lot of waiting outside in the cold and everything else.

This would allow for those persons to have comment into places that have been chosen that are not right. It will not cost the government a great deal of money or, I'm sure, the Chief Electoral Officer a great deal of time to hear people out when the list is established. I know it is established six months before, because politicians and political parties in ridings are often given lists of the proposed polling places well in advance of the election date.

So I ask the government to support this.

The Chair (Mr. Bas Balkissoon): Questions and comments? There being none, I'll take the vote—

Mr. Michael Prue: On a recorded vote, please.

Ayes

Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

We'll move to 7.2.1, a government motion. Mr. Zimmer.

Mr. David Zimmer: I move that the bill be amended by adding the following section:

"23.2 The Act is amended by adding the following section:

"Review and report re alternative voting technologies

"44.3 The Chief Electoral Officer shall conduct a review of alternative voting technologies, prepare a report of the review and, on or before June 30, 2013, submit the report to the Speaker of the assembly."

The Chair (Mr. Bas Balkissoon): Questions? Comments? Ms. Jones.

Ms. Sylvia Jones: My only comment is: Why is it so late after the 2011 election? By the time he does the review and issues the report, I'm thinking we might lose an electoral cycle.

The Chair (Mr. Bas Balkissoon): Mr. Sorbara?

Mr. Greg Sorbara: I think the answer is that the report must be submitted, at the latest, on the date in the motion. We believe that the full intention here—you have to have a cut-off date: "We want it no later than." One expects that what will happen, in practice, is—you know, we have an election to conduct at the end of 2011. In the six months after that, for Elections Ontario, there is a great deal of work ensuring the analysis, not just on accessibility, but so many other things in the election are reviewed and then a report is made to Parliament. Now you're into the beginning of 2012. So basically, there's a year there in which to do the analysis, the review, the testing and the experimentation with alternative voting methods. We put a "you must report to Parliament or the Speaker" before the date that's in the motion.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: I'm also worried about the date. I understand what my friend has just said, and I understand the work that everyone has, but surely we can move that up a bit. We have had a long history—and certainly the Canadian federal government has had an even longer history—of minority parliaments. We don't always have a four-year cycle. As a matter of fact, the last couple have been rather amazing, to have so many four-year cycles—

Mr. Greg Sorbara: I think it's probably because of the government that's in power.

I'm sorry; you invited me to do that, Michael.

1440

Mr. Michael Prue: No, I didn't. I invite you to use your historical wisdom of the fact that we went through a whole string of time, and are likely to go through it again in short order, of minority Parliaments. I'm just worried that the election that follows this one, because of the long date—if there is an election in 2013 or 2014 rather than the next cycle in 2015, then there will be no amelioration for the disabled.

Mr. Greg Sorbara: That's a good comment. Who knows when we will have another minority Parliament and if that minority Parliament might last a full four years? Those are the vagaries of our electoral system. What we're saying here is, "Chief Electoral Officer, you've got to do this work, and no matter what the situation is in Parliament, your essay has to be in by this date. Get the work done."

Now, if it turns out that within two months of that, Parliament falls and there is a general election, well, there's going to be a little bit of chaos. And I agree with you: The changes contemplated won't be in place for what comes out of that kind of review. But as a practical matter, one would expect that the Chief Electoral Officer will be reporting to Parliament much before the date set out here, which is the final date, and one would expect that the voters of Ontario would have the wisdom to once again elect a majority government in Ontario—at least, that's what I'm praying for, sir.

Ms. Sylvia Jones: So am I, just of a different colour.

The Chair (Mr. Bas Balkissoon): I'll take the vote on 7.2.1. All in favour? Against? The motion carries.

We'll move to motion 7.3: NDP motion, Mr. Prue.

Mr. Michael Prue: If my calculations are correct, this would be the last one. Therefore, I have the distinction of having the last motion to come before—

Mr. Greg Sorbara: The last word.

Mr. Michael Prue: The last word.

I move that the bill be amended by adding the following section:

"23.3 The act is amended by adding the following section:

"Accessibility of returning office

"44.4 Every returning office shall be accessible to persons with disabilities and shall provide TTY services for callers with hearing loss."

By way of explanation, I think it's self-evident, but we will have approximately 107 such offices across this province, one in each electoral district. All this motion is asking is that when those offices are set up, they be accessible and that a telephone be put in so that persons with hearing loss can be able to talk to the Chief Electoral Officer. I am asking for support on this absolutely minor matter.

Mr. Greg Sorbara: Well, the good news, sir, is that those standards are already part of Elections Ontario and will continue to be so. Therefore, we don't need it in this amendment.

Mr. Michael Prue: That's the good news; I don't know what the bad news is.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: I don't believe they are in the legislation. I think they are standards that the Chief Electoral Officer of the day has chosen to implement. They are not in the statutes. I think it's a great amendment and I think we should support it.

Mr. Michael Prue: Recorded vote, please.

The Chair (Mr. Bas Balkissoon): I'll take the vote on 7.3.

Ayes

Jones, Prue.

Nays

Dickson, Mangat, Naqvi, Sorbara, Zimmer.

The Chair (Mr. Bas Balkissoon): That motion is lost.

Just some administrative things: Shall the title of the bill carry? Carried.

Shall Bill 231, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

The Chair (Mr. Bas Balkissoon): Mr. Zimmer.

Mr. David Zimmer: If I may just have the committee's indulgence for a second. We've been here now for two days. There has been a lot of fast conversation and, in some cases, very, very long technical amendments. I want to say, on behalf of the committee and, indeed, everybody here, our special thanks to our sign interpreters, Pamela Burchell and Lesley Kennedy McMillan from the Southern Ontario Sign Language Interpreters. I've watched you for two days, as my colleagues have, and it is surely a most remarkable piece of work.

I would ask my colleagues to join me in that congratulations and ask the clerk of the committee, when you get a copy of Hansard, if you'd send a copy of these remarks to the two sign interpreters. Thank you.

Applause.

The Chair (Mr. Bas Balkissoon): I agree with you.

Just one correction: They were here four days.

Mr. David Zimmer: I'm sorry.

The Chair (Mr. Bas Balkissoon): Two days of hearings—

Mr. David Zimmer: Four days, yes. Even more impressive. I don't know how you've handled those technical amendments.

The Chair (Mr. Bas Balkissoon): Before we adjourn, committee, I have a little bit of committee business to do. I know some of you are not on this committee, but the clerk has received the invitation to the National Conference of State Legislatures, and I need your concurrence that the clerk prepare the letter that goes to the House leader to allow the members of the committee to travel to this conference and also to give the subcommittee of the committee the authority to prepare a budget for the committee and submit it back to the committee.

Mr. David Zimmer: Where's the trip?

The Chair (Mr. Bas Balkissoon): This year, the conference is in Louisville, Kentucky, on July 25, 26, 27 and 28.

Mr. David Zimmer: I'm not on the committee, but could I be on the committee for the purposes of the trip?

Mr. Yasir Naqvi: No.

Mr. Michael Prue: Could I ask what has been done in past years? It was my understanding that one person from each party went, rather than—

The Chair (Mr. Bas Balkissoon): The last two years that I've been Chair, it was agreed that all members of the committee have an opportunity to go, but they must submit their requests to the clerk.

Ms. Jones has been on the committee, I think—am I correct?

Ms. Sylvia Jones: Yes, I have.

Mr. Michael Prue: I have not been on the committee before the last few weeks.

The Chair (Mr. Bas Balkissoon): But that has been the agreement in the past, so I'm asking for your concurrence on proceeding in the same direction as previously. Agreed? Agreed.

The committee is adjourned.

The committee adjourned at 1446.

CONTENTS

Wednesday 21 April 2010

Election Statute Law Amendment Act, 2010, Bill 231, Mr. Bentley / Loi de 2010
modifiant des lois en ce qui concerne les élections, projet de loi 231, M. Bentley..... M-75

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Substitutions / Membres remplaçants

Mr. Ted Chudleigh (Halton PC)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. David Zimmer (Willowdale L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Ms. Cornelia Schuh, legislative counsel



M-5

M-5

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 12 May 2010

Journal des débats (Hansard)

Mercredi 12 mai 2010

Standing Committee on the Legislative Assembly

Subcommittee report

Comité permanent de l'Assemblée législative

Rapport du sous-comité



Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2

Telephone 416-325-7400; fax 416-325-7430

Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2

Téléphone, 416-325-7400; télécopieur, 416-325-7430

Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 12 May 2010

Mercredi 12 mai 2010

The committee met at 1304 in committee room 2.

The Chair (Mr. Bas Balkissoon): We'll call the meeting to order of the Standing Committee on the Legislative Assembly on Wednesday, May 12.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): The first order of business is the report of the subcommittee on committee business. Mr. Naqvi?

Mr. Yasir Naqvi: Your subcommittee met on Wednesday, May 5, 2010, to consider the matter of the delayed release of certain members of the House from the March 25, 2010, budget lock-up, and recommends the following:

(1) That the committee meet on Wednesday, May 12, 2010, from 1 p.m. to 3 p.m. and on Wednesday, May 19, 2010, from 1 p.m. to 3 p.m. if necessary.

(2) That the committee invite the following witnesses to appear before the committee on Wednesday, May 12, 2010, to be available from 1 p.m. to 3 p.m.:

—Tim Shortill, chief of staff to the Minister of Finance;

—three OPP officers stationed at doors to the government, Progressive Conservative and New Democratic Party budget lock-up rooms.

(3) That the procedural clerk, research, provide the committee with a comparison study of other jurisdictions with respect to budget lock-ups and how they are handled.

(4) That the referral of the matter of the delayed release of certain members of the House from the March 25, 2010, budget lock-up take precedence over other current committee business, including the letter from the Speaker dated April 19, 2010, concerning provisions in legislation that mandate reviews by legislative committees.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: I would like to make a motion to amend the subcommittee report to include statements, either written or verbal, from members who were obstructed.

Due to the short nature of the subcommittee meeting and given that this is an actual investigation as ordered by the House, it is only fair that the complaint be heard. It is also in the best interests of the government that the actual complaint be laid out, and also in the best interests

of the Ontario Provincial Police and the Ministry of Finance staff. How can we expect them to answer questions effectively and find answers to this issue if they don't even know what the issue is?

I understand that the clerk has also received notice from the member from Wellington-Halton Hills that he would like to submit a statement, and I have his statement in written form that I'd like to be able to submit.

I also understand that the member from Renfrew-Nipissing-Pembroke and the member from Nepean-Carleton are here to give statements. I also understand that the NDP representative is in attendance and could make a statement.

So, in the interests of finding out what exactly happened on budget day, and to protect members in the future on all sides of the House, I move that we amend the subcommittee report to include the written report from the member from Wellington-Halton Hills and additional verbal reports from interested members in attendance.

I know that the member from Renfrew-Nipissing-Pembroke and the member from Nepean-Carleton are in attendance, and I certainly invite the NDP member to—the member from Halton is in attendance as well.

I so move that amendment, to allow those members who were directly involved to state what happened to them on the day of March 25, thereby laying the framework for those who have been called in by the committee to respond.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Prue.

Mr. Michael Prue: I would like to support the amendment that has just been made by my colleague Mr. Miller. Although I do not have anything in writing, I have spoken with Mr. Peter Tabuns, who is the member from Toronto-Danforth, who feels that he was obstructed on that day, and he would be prepared, if the committee so orders, to come and give a very brief explanation as to what happened to him on that date.

1310

I think it's important that we listen to those who felt that their privileges were denied before we go on to the other witnesses. I think it is only fair to the other witnesses who are going to explain the actions they took and the rationale for taking those actions, to hear first how those actions impacted the members, so it might more carefully focus them on the issue of why the members themselves felt their privileges had been denied.

I would hope the committee supports this motion and that we hear from those first who were alleged to have been obstructed on the day, and then we'd proceed to the balance of the business as the subcommittee set out.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Naqvi.

Mr. Yasir Naqvi: I think we all have reviewed the ruling by the Speaker, where the Speaker has very clearly outlined the facts surrounding the issue and has given very specific instructions to this committee as to the next step that should be taken. So I'm a little lost as to the necessity to have members speak.

As I understand, any member can speak at the committee if they are present. That's one clarification I would ask of Mr. Miller's motion: Is he referring to the members who are present today who will have the opportunity to speak, so that we can move on with the three witnesses who are present?

Again, I urge the members to look at the ruling by the Speaker. It is very clear; he outlines all the facts and gives very clear instructions to this committee in terms of determining what took place and helping the Legislature come up with protocols that will be helpful in future budget lock-ups.

If I could get clarification as to—were you referring to the members who are speaking here today, to speak to this issue?

The Chair (Mr. Bas Balkissoon): The motion is being copied to circulate to all of you so you understand it, but I'll have the clerk read it again.

The Clerk of the Committee (Ms. Tonia Grannum): "We amend the subcommittee report to include the written report from the member for Wellington-Halton Hills and additional verbal reports from interested members in attendance."

The Chair (Mr. Bas Balkissoon): Further debate? Ms. Jones.

Ms. Sylvia Jones: Yes, I just wanted to follow up on what Mr. Naqvi was talking about. In fact, this committee is not supposed to be dealing with the Speaker's letter yet. If you look at point 4 of the report of the subcommittee, it clearly says that budget lock-up issues "take precedence over other current committee business, including the letter from the Speaker." So we're not at the Speaker's discussion yet and the Speaker's letter. We need to resolve what happened during and prior to the budget lock-up and the presentation of the budget. I don't think it's unreasonable for us to—

The Chair (Mr. Bas Balkissoon): As the Chair, I'm going to just say that we're here because of the Speaker's letter to us, and the subcommittee met on the Speaker's letter. Let me just—

Ms. Sylvia Jones: Read point 4. It's not the Speaker's letter.

The Chair (Mr. Bas Balkissoon): Could we have that motion? It was the motion from Mr. Arnott, I think, to the Speaker, and that's really what we're dealing with.

Ms. Sylvia Jones: Exactly, but that is not what the previous speaker was referencing. He was talking about

the Speaker's letter; we're not at the Speaker's letter yet. We're talking about Ted Arnott's letter to the Standing Committee on the Legislative Assembly, and I don't think it's an unreasonable request to amend the subcommittee report to ask that the members who have taken time to attend have a few minutes to explain what happened to them on that March 25 afternoon.

The Chair (Mr. Bas Balkissoon): Unfortunately, none of us have the letter. What we have is the referral from the House. I can read you what the referral states in the minutes. It says that "the matter of the delayed release of certain members of this House from the March 25, 2010, budget lock-up be referred to the Standing Committee on the Legislative Assembly for its consideration." A debate arising with unanimous consent, the Speaker recessed the House for five minutes. Then the question had been put on Mr. Miller's motion; it was declared carried. That's all I have.

Ms. Sylvia Jones: I'm happy to provide the other members of the committee with the letter that was sent from Ted Arnott for circulation, but if we can't even agree on what the subcommittee meeting is discussing, I think we have a problem.

The Chair (Mr. Bas Balkissoon): I have to take the referral from the House. It's the issue of the delayed release of certain members. That's—

Ms. Sylvia Jones: Right. Not the Speaker's letter.

The Chair (Mr. Bas Balkissoon): No. So that's the direction of the House. Every member is entitled to have that letter, and under consideration of what we're dealing with from the House, reference to the letter can certainly be made. I won't prevent that, but I don't think the letter is a direction to us.

Ms. Lisa MacLeod: Chair?

The Chair (Mr. Bas Balkissoon): I have one other—just a second; let me make a list here now. Mr. Arthurs.

Mr. Wayne Arthurs: I'm just going to comment generally. One, we have members of the Legislature who are here today who are not probably normally or may not be subbed into the committee, based on our numbers, but my understanding is that any member of the Legislature who attends a committee has the right to speak at that committee; they're restricted in their voting. I can see, even in the context of us supporting the amendment, I'll say—I'll speak to that portion first—in supporting the amendment from that context because we have members who are here.

I would suggest, though, in part, that we hear from those who were asked to appear first, only because of the time constraints this committee is going to find itself under. It has two hours set aside, and Mr. Shortill and the OPP office were asked to attend the meeting. Because you've set aside two hours for the committee purpose, it might be advantageous to make sure there's time, given it's going to take some time just getting to the point of adopting the subcommittee report. So I would think, just out of courtesy, if we could have them make their presentations and then proceed with the committee activity.

In the context of written submissions, I certainly have no objection to the committee accepting written submissions from other members, and even putting a reasonable deadline on that so that members of the committee would have the chance to review it prior to next week's meeting, I presume.

The Chair (Mr. Bas Balkissoon): Ms. MacLeod.

Ms. Lisa MacLeod: I'm in favour, obviously, of the motion put forward by my colleague in the PC caucus. I think there needs to be some understanding here of what actually happened. I understand that the Speaker's letter precipitated the invitation to certain individuals who appear here today.

That said, your subcommittee met after those invitations had gone out. So, again, it's important that certain facts get into the record here today, and those facts are going to come from members of the opposition, who include the leader of the official opposition and the leader of the third party. I'm not sure what the government is afraid of finding out, but it's important that all members of the assembly who felt they were obstructed not be obstructed again in this committee. So I am urging all members of this committee to support this motion so that justice is not only done but, as they say, is also seen to be done. If it's not, I think we're going to have some really serious problems. I appreciate the hard work of the clerk and the research staff, but again, we must make sure that the cart's not going before the horse, here; that we get the facts on the record from those who were actually impacted.

You must remember that we also don't have a definitive time of exactly what time certain members were allowed out of lock-up. I certainly recall that day, and I'd be happy to put that on the record, but I think it needs to be on the record in a systematic way where all members, including Mr. Tabuns and Ms. Horwath, and other members of my party are able to do that in a meaningful way; otherwise, this committee is just a sham.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: I think it's quite clear. We have a learned piece here from Peter Sibenik, the procedural clerk of research. What he's saying is that in the past what committees have done is precisely what is being asked here. He writes, in part, "security arrangements in lock-ups; what happened in each lock-up on March 25, 2010, and why it happened." This is what we have to determine. We cannot determine that until we hear what happened to the individuals involved. It's all well and good to call the police officers; it's all well and good to call people from the finance minister's office, but they probably were not in attendance at that location, these individual officers, because they were in charge, rather than the people who were actually stationed there at the moment. The only people who can reasonably tell us what happened on that day are the people who were impacted.

1320

If this committee does not want to know how the members were impacted and if the government wants to

call its own members who say they were not impacted, that will say something, too. But that's what we need to hear: What happened in each location, when it happened, when they were freed and under what circumstances they were allowed to be freed from the lock-up. Then we have to make a determination from that and ask other questions like why this occurred—not that it occurred, but why it occurred. For the lawyers in the crowd, and I am not one, this is a matter of setting the evidence, what has happened, before we try to draw or judge conclusions on the basis of that, and how people reacted to that is precisely what happened.

If you don't call these witnesses that have been requested, and if the government has the option of calling any of their own members to say whether it happened or did not happen to them, then I don't think this committee can do full carriage of the justice of this case and cannot come to the proper conclusions. What we are going to come to will be tainted, truncated and minuscule in terms of what I think our role is: to gather all of the facts and to draw all the appropriate conclusions. That's why I think it is absolutely essential that we hear from those members who are present, that we read the written correspondence, that we invite any and all people who were impacted to give evidence.

I would also caution, though, because I have my colleagues here, that I don't think that if they are going to be making these statements—I know that they're here, anticipating, but if we determine that we are to proceed, I would suggest that they not sit at the table, because they cannot be part of the decision-making and give evidence. I think the line has to be drawn. But I don't blame them for sitting here until this committee makes that decision because, if not, the only way they're going to give some information is to sit here. I don't know how they're going to participate from that point on, having given evidence. You can't sit in judgment of your own evidence.

The Chair (Mr. Bas Balkissoon): Mr. Yakabuski.

Mr. John Yakabuski: I thank my friend Mr. Prue, and I agree with exactly what he's saying. If the committee is supposed to get the whole picture and if Mr. Shortill and Inspector Knox are going to be able to comment on the circumstances, they would be best served in knowing, from people who were actually there, people who were outside, who left the lock-up room and then were held for a substantive length of time before they could proceed to the House. I think they need to hear from people like myself, the written submission from Mr. Arnott, a verbal one from Ms. MacLeod, and possibly others, and Mr. Tabuns, if he can. Because if the committee is going to be asking Mr. Shortill and Inspector Knox questions, in fairness to them, they need to know what allegations are being made—not against them specifically but in the whole picture about how we were obstructed as members and had our privileges breached.

Quite frankly, the Speaker has agreed that our privileges were breached. Reluctantly, the government House leader has had to accept that and admit that herself. If they're going to be able to give proper testimony to this

committee, I think, in fairness to them, they need to know what has actually been said, because not myself or Ms. MacLeod have had the opportunity to speak. We didn't speak to the motion of privilege or anything else with regard to our experiences that day. I think that the deputants before the committee would be well served.

I also agree with Mr. Prue. Should we be allowed to give that address to the committee, I would certainly be more than prepared not to be sitting on this side of the table, questioning the same people who are then giving a deputation. I understand that. I think it's fair, and I think it's reasonable. But in the absence of that ability, then it would offer us no choice.

When Mr. Naqvi says that we can all speak before the committee, there's a significant difference between asking questions of a deputant at a committee and being able to give testimony yourself—a significant difference. I don't think we should, for a moment, think that we have the same privilege on this side of the table as we have in giving evidence. We are there also to answer questions by members of the committee, should we be giving evidence. I think that if the committee and its work are to be served properly, this motion should be supported. Of course, I won't be voting on it because I don't have a vote, I don't believe. It's up to the government members of the committee to decide if they want to allow this committee to do its work in the fullest fashion, or if they want to cut it off at the knees as has been done so many times in the past.

Mr. Norm Miller: I think that the request that's being made, as has been outlined by some of the other members here, is quite reasonable. I don't think it's going to be a time-consuming thing, to Mr. Arthurs's point. We're probably spending more time talking about it now than it would have actually taken for the members to state their case. I would hope that the government will be supportive of allowing the amendment. It states, "members in attendance," as well, right on it, so I think it's a reasonable request. Maybe the government can give me some indication if they think it's reasonable and whether they'll support it.

Mr. Bob Delaney: Chair, I'm not entirely sure what's so sensitive about a subcommittee report, which we've all read and routinely passed many times. I gather there is no objection to tabling any documents in the normal committee proceeding of any sort. I'm not sure why they should be included as an addendum to the subcommittee. I have heard no reluctance as to the calling of witnesses.

I would also suggest that we're all here to do the same thing, which is to listen, and that perhaps we could use the normal committee process and a little bit of bipartisan goodwill to get everyone heard and address this particular issue hopefully once and for all.

Perhaps we can just pass the subcommittee report as read, to start.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi.

Mr. Yasir Naqvi: I think that Mr. Yakabuski made an appropriate point in his remarks, at the midpoint, saying that the Speaker has already found a *prima facie* breach

of privilege. The House leader has accepted that there is a breach of privilege. I think the issue around whether obstruction took place or not is resolved: There is obstruction that took place.

I think the real work for this committee now moving forward is to make sure that it does not happen in the future. That's what we really need to focus on. I don't think we need to sit around here to determine whether the obstruction took place or not because I think that's fairly well resolved at this point.

As Mr. Arthurs pointed out, there is already, under the standing rules, a process in place where any member of the Legislature can speak to the committee. We do not see any reason for members to come as deputants or as witnesses and give testimony. They already have a right to speak to the committee. That mechanism already exists. We do not need to augment that particular process.

I suggest that perhaps if a member, beyond just speaking at the committee, as they're entitled to do, wants to submit their version of facts in writing, we would be more than happy, of course, to accept that, and it will be circulated to all members and will be part of the record.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: My concern with not amending the subcommittee report, in follow-up to Mr. Delaney's comments, is it very specifically lists who would be appearing before the committee, and I would like the committee to have the ability to actually call witnesses as necessary to resolve the issue.

The Chair (Mr. Bas Balkissoon): Can I just interrupt you for a second, because I sat through the subcommittee meeting. There has been no decision by the subcommittee that this is the be-all and end-all list. This was our starting point, and we had agreed that after today's meeting there would be another subcommittee meeting to decide where we go as a next step. That was my recollection of the meeting—

Ms. Sylvia Jones: Perhaps the easy way to resolve that then—because if you read the subcommittee report as it stands right now, it is limited to who is listed—is the addendum "and other witnesses as necessary for the work of the committee to be completed...." Perhaps that would resolve my concern that we're not going to hear the full story.

1330

The Chair (Mr. Bas Balkissoon): That's a possibility, and I have to take an amendment from somebody, if that's the way you want it, on the motion that Mr. Miller tabled.

The next—

Mr. Norm Miller: Mr. Chair, on that point: My understanding is that the subcommittee can meet again and decide to do whatever it wants in the future. But I still think it makes logical sense for us to hear from those two or three members who are here and willing to make testimony. I don't think it will take more than 15 minutes for us to do that, and that lays the groundwork for the people we've asked to come before the committee. If the

government is not in agreement with doing that, I'd certainly like to know about that.

The Chair (Mr. Bas Balkissoon): Ms. MacLeod?

Ms. Lisa MacLeod: I guess I'd like to speak briefly to two points made, one by the member for Ottawa Centre and the other by my colleague sitting beside me, Mr. Prue. I think the issue is integrity of the process. My colleague Mr. Prue pointed out that we do sit around this table, and we are participants in the committee where we have an opportunity to question witnesses. He has spoken, I think, to the heart of the issue, which is those who believe we were affected—obstructed—on budget day should have the right to testify as witnesses and not as mere committee members or sitting here as MPPs who do not have official status on the committee. So it is an appropriate way. It's almost as if we would be questioning ourselves, and I don't think the integrity of the process is respected at that point.

Just to speak to Mr. Miller's motion: I think it's a fair motion, and I think we must deal with that first before any further amendments to the subcommittee report. I think it's important that there are members here. There is a draft circulated by my colleague from Wellington-Halton Hills, who has spent much time in this Legislative Assembly working in a capacity as an Acting Speaker and who knows the rules quite well. I think it's of value to add his letter to the public record.

In addition, again, I must reiterate what happened that day, and my colleague from Ottawa Centre acknowledges that there was obstruction—there clearly was obstruction. The member from Ottawa Centre has acknowledged that. When that occurred, the leader of the official opposition and the leader of the third party were effectively locked out of the chamber because they were stuck in lock-up. I'm sure that is unprecedented in Ontario's history. I think that, again, in order to speak to the integrity of the process, Mr. Miller's motion should receive all-party support; otherwise, I think that we have a real problem with the integrity of the process, and I think it's the only fair thing to do.

Again, I must reiterate that when the subcommittee met, a witness had already been invited—I respect that; I think they're the right witnesses to bring in—but there needed to be time to actually consult with the parties so that members who felt obstructed, whether that was Mr. Tabuns, Mr. Yakabuski, Mr. Arnott, myself or Ms. Horwath, should have the ability to speak to this committee as part of the record-setting, not just the question-and-answer period. We have a different role to play as members who have something to contribute to the committee other than just fact-finding, because we are part of that overall story. The only way that you're going to get the truth is if you let us speak and not muzzle us, which I think is what the government wants to do.

The Chair (Mr. Bas Balkissoon): Mr. Yakabuski.

Mr. John Yakabuski: To Mr. Naqvi's point: If that was simply the matter that had to be determined, we wouldn't be sitting here. There was obstruction. That has already been determined. Now we need to find out what

the nature of that obstruction was and how the affected members were impacted by it. The Speaker has ruled, and the government House leader has agreed. If that was what we were trying to determine here, if that was what we needed to determine, we wouldn't be having this committee meeting. This committee meeting is, in fact, to get all of the facts on the table about what happened there. This is not about whether or not the government is guilty; that has already been determined. Now we need to know, from the people who were directly affected, how this impacted them and their abilities and their privileges as members of the Legislature. That's what this is about. To not allow members of the Legislature who were directly affected the opportunity to testify before that committee is, in effect, muzzling not only the committee but those members, in the proper forum, from being able to articulate the circumstances and the events of that day.

I submit to the committee that the finding of guilty has already been determined. The government has pled guilty, under duress. Originally they tried to deny it completely, but then when the Speaker ruled, all of a sudden, "Yes, I guess we were wrong. We are guilty"—sort of like trying to get out of a hanging and get a life sentence or something, making a deal.

We've already determined who's guilty here. Now we need to know, and this committee has to know, the circumstances surrounding the events of that day.

The Chair (Mr. Bas Balkissoon): Mr. Arthurs.

Mr. Wayne Arthurs: Mr. Chairman, there's going to be a subsequent opportunity for the subcommittee to meet. I think that's what I heard you say. If that's the case, there's obviously opportunity for some further discussion subsequent to today.

Let me be clear: I'm not going to support this amendment, for two particular reasons. I am personally, at this stage, satisfied that every member of the Legislature has an opportunity to speak and be heard and be on the record in Hansard at this committee if they so choose. Secondly, as the amendment is written, it is restrictive, in accepting written submissions, to the one submission by the member from Wellington-Halton Hills. It certainly doesn't speak to whether or not there are additional written reports that might be considered.

Based on those three things—(1) your comments about the work of the subcommittee being not necessarily complete in the context of this full committee's role; (2) the opportunity for any member of the Legislature to present to or participate in a committee but not vote; and (3) that as I read this particular amendment at this time, it's restrictive in the context of the opportunity for written reports, save and except the one from the member from Wellington-Halton Hills, which is currently before us—I will not be supporting the amendment.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: Both the Speaker and the House told this committee what we need to do. What we need to do is to get to the bottom of all of the facts, which is why I want to hear all the witnesses. If the majority of this committee determines that we cannot do that, you leave

me three choices, as a member of the committee. You need to know these three: I can proceed under duress and do a partial job; I can walk out of the committee and not represent my party and the Legislature as instructed; or I can go back to the House on a point of privilege that my rights have been obstructed. I'm inclined to do the latter. I am inclined to go back to the House and tell the Speaker and the House, which have given us the mandate to do all things necessary to get to the bottom of this issue, that the majority of the committee is refusing to allow that to happen.

I don't know what the members opposite want to do. Those are the only three choices that I have. I do not intend to walk out of here, but I might have to. I do not intend to sit here under duress and not do my job. So I guess I'm looking at the third one, not wanting to do it, but that is the choice that is being forced upon me, given these circumstances. The circumstances are, I think I have to do all things necessary in my job to get to the bottom of the facts and report my findings, through this committee, to the Legislature and to the Speaker who empowered us.

Don't ask me to do a half-job. Please don't. I don't want to do a half-job. I want to do the fullest and best job I can, and I don't want to be obstructed in that by being told who I can call, who I can listen to or what testimony is relevant.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi.

Mr. Yasir Naqvi: I keep trying to make a very simple point, and that is, every member has the right to speak to the committee and they can exercise that right.

Again, as Mr. Yakabuski said, it has been established that there were some delays for some members to arrive in the House. Now the issue is where that breakdown in protocol took place and how we're going to rectify it. I don't think we need to go back and establish that there were members who were delayed in getting to the House for the budget speech. That has been said again and again. You use the really nice analogy of guilty and not guilty and all that kind of stuff. Once that is all established, what we now need to work on is where the breakdown in protocol was. That's why we have invited three witnesses to come forward—and I'm very mindful of their time. That's what we had agreed on at the subcommittee level and that's why we are here: to listen to their version as to where the breakdown in protocol was.

1340

If the committee feels that we need to take next steps, then the subcommittee will discuss that and we'll determine what the next step is, but I think what we should focus on right now is the three individuals who are here, who have been requested to come to give their submission, so that we can then determine what the next steps are and whether we've got the answers we need or not. It's as simple as that.

The Chair (Mr. Bas Balkissoon): Mr. Chudleigh.

Mr. Ted Chudleigh: I'd like to confirm a couple of things. One, there has been a suggestion that there will be a subsequent meeting. I'd like you to confirm that, Chair,

that in fact, there will be a subsequent meeting, if the time is required. Is that your understanding?

The Chair (Mr. Bas Balkissoon): I will give you my word that that was my understanding sitting on the subcommittee meeting, that we would start with the two witnesses who are listed in the subcommittee report, and at the end of those two deputations, the committee would make further directions as to where it wants to go. I still stand by that because as of this morning, I spoke to the clerk—

Mr. Ted Chudleigh: The committee would make further directions. Is that going to be put to a vote?

The Chair (Mr. Bas Balkissoon): The second subcommittee report would have to be put to the committee again, yes.

Mr. Ted Chudleigh: So it may or may not happen. You don't have the authority to make it happen; the subcommittee would make it happen. That subcommittee report would have to be passed by this committee, and that may not happen. Given the resistance that we're having here today, indeed, it probably won't happen.

Secondly, if that meeting does take place, I guess the same situation would apply in that I would like to know if we have the right to call witnesses. It seems to me that there are some people who set up the protocol from whom we might want to know whether this protocol is the same as last year, whether it's the same as previous years, whether it was adjusted, who adjusted it, why it was adjusted and where that line of questioning might lead us. Again, that could only take place with the approval of a subcommittee meeting, which may or may not pass this committee.

The Chair (Mr. Bas Balkissoon): I can't prejudge the subcommittee and the committee; all I can tell you is that the subcommittee met—

Mr. Ted Chudleigh: Mr. Prue's third point is maybe good for all of us. If we can't get this far, the vice-chair of this committee needs to go back and get some further direction, because this ain't happening the way that you're proposing it.

The Chair (Mr. Bas Balkissoon): I have Mr. Delaney.

Mr. Bob Delaney: The point before the committee is an amendment to the report of the subcommittee. The discussion that the members have raised is perhaps presupposing the outcome of that vote on the amendment. I'll repeat the points that I made before: There is no objection to tabling any documents. I've heard no objection to hearing from any witnesses. Perhaps we might want to pass the subcommittee report. I'm not sure whether the members opposite have any objection to hearing what Mr. Shortill and Mr. Knox have to say, but perhaps we could hear from them.

The Chair (Mr. Bas Balkissoon): Ms. MacLeod.

Ms. Lisa MacLeod: Just a comment to the member for Ottawa Centre, who I understand is a lawyer: To be honest, you're trying to withhold the committee from hearing evidence. You're not going to get a thorough investigation or a fulsome response unless you hear from

the members who were affected as witnesses, not simply as just members of the committee asking deputants questions. That is the heart of this. I can't say it any more clearly than my colleague has, and I've stated before that the integrity of the process is to ensure that those who were affected are treated as witnesses regardless of whether they have standing in the Ontario Legislative Assembly or not.

Right at this point in time, it would behoove each and every single one of us who are sitting on the opposition sides, regardless of political party, to debate the merits of the motion, not what occurred on budget day, because they're two different issues. So I would urge you to support my colleague from Parry Sound-Muskoka on a very reasonable amendment, simply allowing members of this assembly who feel that they were obstructed on budget day to explain it.

There is critical evidence there. If you want to find out about timing, about who spoke to whom, and you're trying to find out about a breach that may or may not have occurred, through whom that might have happened, whether it was the OPP, budget official staff or the Premier's office, the only way you're going to get that is through information that members of this side of the House have, whether that is in the third party or in the official opposition.

The best way to get to the bottom of the whole incident is to speak to everyone, not selectively talk to people the government approves of. My understanding is that the government, in subcommittee, did not support calling in the OPP. Fortunately, that is here. And, of course, Mr. Delaney, we do want to hear from the OPP and we do want to hear from Ministry of Finance officials, but we do want to have our opportunity to preside in this committee as witnesses, not just as members of the Legislative Assembly.

This is a serious issue. It deals with parliamentary privilege. As my colleague from the New Democrats has stated, he feels that if you do not support this motion and you do not allow members of the opposition to speak, you will have breached not only his privilege but I believe everyone else's on the opposition benches. I'm not sure that's where you want to go with this committee.

I think this is a good-faith motion by my colleague from Parry Sound-Muskoka. He put forward a point of privilege. The Speaker ruled in his favour. That is why we are here today. We can continue to debate the merits of this amendment or we can get to the business of actually hearing from the people who were obstructed from going into the Ontario Legislature to hear the budget and to represent their constituents. That is, after all, why we were sent to this place in October 2007, and that is why we're going to continue to call for fairness in this committee to ensure that other members' privileges are not breached in the future. Please do not breach our privileges here in this committee and further obstruct us, especially those who were obstructed in attending the budget on time that day.

The Chair (Mr. Bas Balkissoon): Mr. Yakabuski.

Mr. John Yakabuski: To the points of the members of the committee opposite: Inspector Knox was not the officer we communicated with that day. That officer is not here before this committee. Inspector Knox would be well served by knowing what our position is, as the MPPs who were in fact obstructed.

Our communication was with the senior officer acting on budget day. Mr. Shortill wasn't there at our lock-up. If this committee is to have the best evidence ahead of it or presented to it in order to table some kind of a report on the incident, it has to be a little more than—I'm not presupposing the evidence of the submitters either, but it has to be a little more than the government and a mea culpa. The facts have to be on the table. The facts have to be known. All of the circumstances have to be known if we're going to make a reasoned judgment as to what happened, why it happened and how we ensure that it does not happen again.

For the members to imply that sitting here as a member of the committee, not a voting member but as a member of the opposition side, not members of the committee but able to speak as MPPs, as we all have that privilege at all committee meetings—to compare that to the weight of testimony given to the committee is simply not reasonable. The value and the credibility and the scrutiny—because you, as members of the committee—we would then be only deputants and not people on this side. The ability of you to scrutinize and to question us as presenters—you don't have that. That dynamic does not exist.

We've already spoken. I've probably used more than 10 minutes of speaking time already. We're looking for the opportunity to address the committee on the facts. We have not talked about the incidents of that day. We would like the opportunity to speak about the incidents and the circumstances of that day, because that is, in fact, why we are here—to talk about that day. We are not here to determine whether or not there was obstruction. That has been done. This is the time to learn here about the facts as I see them. As other members who may present to the committee—you don't have to agree with them, but we should have the opportunity to present them. You don't have to agree with the position of anybody who ever comes before any committee of this Legislature, but the opportunity to put them on the record is something that we should not have denied to us.

1350

The Chair (Mr. Bas Balkissoon): Mr. Hardeman.

Mr. Ernie Hardeman: I'm sitting here listening. I get somewhat confused, if I can say that. I'm not supposed to say that as sitting here on committee, one would get confused, but we want to hear the facts; we want people who have facts that are going to help us in this decision-making process to give those facts, and I think all parties would want to make sure that they had the opportunity to question those facts from the person giving them.

With the present structure, I can tell you that after I get through with this little presentation, I will not be giving the government side the opportunity to ask me questions

and for me to answer them. I would think that, on the evidence, they would want that ability to figure out, if there are differing stories, as to which one they are more apt to agree with, which has more credibility. Under the present structure, if the members of the Legislature are not allowed to give testimony and there is no questioning, there is no—what should we say—sorting through the facts as they're presented and coming out with the ones that are the most credible. I just, personally, can't understand why we're having a discussion of whether they can actually give testimony in front of a committee or whether they can just sit on the committee and take the next 20 minutes and speak about the facts as they see them and no one can question what they said. To me, that doesn't make sense.

The thing that I would really question—and in all the years that I've been here I don't think I've ever been at a committee where the first debate at the committee was about how we are going to proceed with where we're starting from and how we're going to arrive at the conclusion of the committee's work. It has always been in one subcommittee report. You decide who you're going to hear from, you decide where you're going to go and hear from them, and then the subcommittee report comes to the committee and the committee discusses whether that's the right approach to take the job from finished end. To say that I was a little shocked when I heard the Chairman say, "But this is only a subcommittee report to get us started. We'll be having another subcommittee report to carry this forward"—I don't know how anyone can vote for a subcommittee report that says, "This is how we're going to conclude this issue that is before us—well, no, not really. We're only going to take it a little ways because, some time in the near future, we may get together and decide again if we're going to go in a different direction because we don't like the results as they're coming out." I just don't believe that we could be sitting here having a subcommittee report before the committee that doesn't deal with the full facet of this whole debacle.

I also want to point out, and it has been mentioned here a couple of times, that there is no argument about what happened. I was told that I could not yet leave the room because it was not yet time because there were others who had decided when I could leave. I don't need to know that I was obstructed; I know I was obstructed. I just don't know whose fault it is. Who actually instructed that obstruction? I think that's what we're looking at. Who took it upon themselves to take my privilege away in this place? The people of Oxford county sent me here to do my job; somebody—and I won't point any fingers—but somebody decided I wasn't going to be allowed to do it the way the Legislative Assembly Act of Ontario allows me to do. I think that's what we need to find out, and I think all members of all parties should do all we can to hear as much as we can of the facts so we can come to a reasonable conclusion.

I don't believe that what is before us now, including the amendment put forward by my good friend—even

that amendment passed, along with this report, is not going to take me where I think we need to be, because I want to make sure that all the facts are out and that we can question and talk to each person who has a story to tell and find out where the facts lie in between all the story. I'm almost totally convinced that when we listen to 25 people, we will not have 25 people all tell us the same story. I have a feeling that, at some point in time, this committee will have to make some decisions based on all they've heard, so I want to make sure that each item they heard was thoroughly investigated to make sure that they can make the decision based on the credibility of each witness to find out where the story lies.

The other thing is that I think that it's very important that everyone, at some point in time—not as the three parties, but collectively—can come up with a report that says, "This is what happened," even if we can't come to a total agreement as to how it should be solved. I would like to think that, at the end of this process, everyone on all sides of the table will agree with what happened and how the instructions got to where they were to make this happen.

I just want to throw in a little wrinkle on the whole issue. I was talking to someone just after the Speaker ruled that there was a *prima facie* case of a breach of privilege—and that's why we're having these hearings. My question was: If the security had the right to keep me from leaving the House when I did, when I went into the lock-up and decided not to stay for the whole time, as I had agreed to do—I would have to go against my own principle, which was that I promised to stay, but I wasn't going to—would the security have forcefully kept me from leaving?

I'm not sure that in the standing orders there is anyone in this place who has the power to do that, but I think it's very important that the obstruction part is much broader than just at that moment when they didn't allow me to leave. I think this committee needs to deal with all of those types of things, and I think all honourable members—and that's why they call us honourable members—when we go in, may give our commitment that we will stay there until the time that is agreed upon so we will not divulge the information that we got in the briefing.

But does that agreement prevent me from doing that if I want to go against my own word? I'm not sure right now that the security would be totally convinced that they would have a right to tackle me, handcuff me and keep me in that room until the time I was allowed to leave. I think those are the types of things that may very well become part of this discussion, but it's ever more important that what we end up with is that we all agree, not only on what happened—I know what happened—but how it happened, under whose direction and who should be held accountable for what the Speaker said was a *prima facie* case of obstruction of my privilege.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: I think I have a resolution to this dilemma. If the committee hears first from the people who say they were aggrieved, then Mr. Shortill and Mr.

Knox will only have to speak once to the committee. If Mr. Shortill and Mr. Knox go first, then they may have to come back another day if what we add or say after them contradicts what they say to us.

I would point to that as logic as to why we should support the amended subcommittee report, get on with the business of hearing from the couple of members who want to speak and then on to Mr. Shortill and Mr. Knox so that we don't run out of time today.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi?

Mr. Yasir Naqvi: First, I want to make a clarification as to what the member from Nepean—Carleton said, that there was an objection to the OPP testifying at this committee. That is not correct. There were different ideas that were discussed at the subcommittee meeting, and at the end of the day, the subcommittee members all agreed to the subcommittee report, which is present before us for the vote.

Therefore, I ask that we proceed with the vote as it was agreed on at the subcommittee level so that we can hear from our two witnesses today; then the committee and the subcommittee can determine the next steps.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: What my friend has just suggested flies in the face of parliamentary procedure. Subcommittees report to committee in every single case in this Legislature. The committee is free in every single case to make amendments, to change or to vote contrary to what the subcommittee has recommended.

It happens all the time. The subcommittee is a mechanism to report to the committee. It is the committee that determines where it's going to go. That's why this motion is being made.

1400

I want to speak to some of the other things that I think are not properly being said on all sides of this issue. First of all, we have been set up here today not just as your ordinary committee. We are being set up, as a committee, as a trier of fact. We are being asked to conduct a quasi-judicial tribunal, to get to the bottom of certain facts and procedures and to make recommendations, not unlike a quasi-judicial tribunal like the housing tribunal or what the immigration department or other people do.

We are supposed to listen to the evidence. There are different forms of evidence. The highest form of evidence is that which is given under oath. That's why I want to call the members who are sitting here who want to testify, to put them under oath and give the very best credibility I can to someone who is under oath. I cannot judge the statements they are making the same as I can judge when they're sitting here beside me. They are not under oath and they are not subject to cross-examination. You know that, Mr. Naqvi, as a lawyer. Surely you know that somebody who sits there and who is under oath is subject to cross-examination; someone who sits here, as a member of the Legislature, although they're free to speak, is not, and you know that. That's why I want to call witnesses and I want them to be put under oath.

Every single witness will be put under oath, and you know that too.

The thing is, when you hear the evidence from someone under oath, you can either believe it or not believe it, but that is the highest evidence. You know, from doing quasi-judicial tribunals, as this one is going to be, that if you get a letter from someone—from Mr. Arnott—that does not have the same weight. If it's an affidavit, it has slightly more, but it never has as much weight as someone who is in front of you, who can be cross-examined.

So I think if we're going to get to the bottom of it, we need to cross-examine the witnesses. We can't say what you have said, that by sitting here beside me, that's good enough, because I cannot cross-examine him, nor can you.

You cannot say that I'm going to take letters from people, because it has a definitively smaller amount of weight, and you know that, as a lawyer.

So it comes down to what the Legislature and the Speaker have asked us to do. They have asked us to conduct a hearing and to put witnesses under oath. That's what they have asked us to do, and I don't understand the obstruction of doing that.

If you can explain to me how you can get the same evidence from a member of the Legislature who is not under oath and not sitting there, tell me how it's done. If you can get the same information from something that is not subject to cross-examination, like this letter from Mr. Arnott, tell me how it's done. I don't think you can.

So that's the issue: Are we conducting a real inquiry, as the Legislature asked us to do, with all of the authorities we have, or are we not? Quite frankly, I told you, if we're not, I intend to take this back to the Legislature.

The Chair (Mr. Bas Balkissoon): Mr. Arthurs.

Mr. Wayne Arthurs: Sorry, Mr. Chairman, I have nothing further.

The Chair (Mr. Bas Balkissoon): I have no more speakers, so I'll take the motion that's—Mr. Miller.

Mr. Norm Miller: I don't know whether the parliamentary assistant can give an indication of whether he will support my amendment or not, but I'd appreciate it if he can.

Mr. Wayne Arthurs: I did speak earlier to the matter and indicated at that point that I would not be supporting the amendment.

Mr. John Yakabuski: Do you speak for the committee—

Mr. Wayne Arthurs: Until the vote is called, I guess we don't know.

The Chair (Mr. Bas Balkissoon): I have no more speakers, so I'm about to call the motion.

Mr. Norm Miller: Subject to standing order 129(a), I call for a 20-minute recess for caucus to discuss this.

The Chair (Mr. Bas Balkissoon): I have a request for a 20-minute recess. We'll recess for 20 minutes. We'll be back here at 2:22.

The committee recessed from 1403 to 1421.

The Chair (Mr. Bas Balkissoon): We'll reconvene the meeting. I have a motion to amend the subcommittee report, and the motion is by Mr. Miller. Does everyone have a copy of the motion?

All in favour of the amendment?

Interjection: Recorded vote.

Ayes

Jones, Norm Miller, Prue.

Nays

Arthur, Delaney, Dickson, Mangat, Naqvi.

The Chair (Mr. Bas Balkissoon): The amendment does not carry.

I'll now take the subcommittee report. Ms. Jones?

Ms. Sylvia Jones: May I make a suggestion for an amendment to the subcommittee report that would read, after point 2: "That the committee invite the following witnesses to appear before the committee on Wednesday, May 12, 2010, to be available from 1 p.m. to 3 p.m." Then we have listed currently Tim Shortill, chief of staff to the Minister of Finance, and three OPP officers stationed at doors to the government, Progressive Conservative and New Democratic Party budget lock-up rooms. I would like to add an additional point that would say "and other witnesses as necessary for the work of the committee to be completed."

The Chair (Mr. Bas Balkissoon): I have an amendment by Ms. Jones and I'll have it read before I take the vote.

The Clerk of the Committee (Ms. Tonia Grannum): Number 2, bullet point—

Mr. Norm Miller: I'd just like to add some comments. Obviously, Ms. Jones has a different amendment than the one I put forward, again, wanting to be able to hear from those members who are here today. It doesn't specifically say that but it would allow for Mr. Yakabuski, who is still here, to be able to start the proceedings and get under way. So I will be certainly supporting this amendment to the subcommittee report, Chair.

Ms. Sylvia Jones: A point of clarification. The reason I'm bringing forward this amendment is that I am concerned that we are limiting our ability to have a complete overview of what happened on March 25, and it would be my hope that by adding this additional point for other witnesses, as the committee deems necessary, we would actually be able to have a complete overview of the budget lock-up and issues coming forward as a result.

The Chair (Mr. Bas Balkissoon): I'm trying to understand. Is your amendment for the other witnesses—that those witnesses make deputation ahead of Mr. Shortill and—

Ms. Sylvia Jones: No, it is not that specific.

The Chair (Mr. Bas Balkissoon): All right. I just need to clarify the wording.

Ms. Sylvia Jones: The wording I have is "and other witnesses as necessary for the work of the committee" to proceed, and it would, of course, be on other days because we are winding down our available time for today, so on other days.

The Chair (Mr. Bas Balkissoon): I'll just have the motion read by the clerk again.

The Clerk of the Committee (Ms. Tonia Grannum): Point number 2, bullet point number 3, "and other witnesses as necessary for the work of the committee to be completed, on additional days."

The Chair (Mr. Bas Balkissoon): Mr. Delaney.

Mr. Bob Delaney: A couple of questions of clarification: Is there any limit on the number of witnesses? Are you proposing that witnesses be summoned by the entire committee, a majority of the committee or any one member? That witnesses come for a single appearance or may be called back any number of times? Could you clarify some of those?

Ms. Sylvia Jones: Of course. Excellent questions. As is general protocol, I would assume that the additional meeting dates, if necessary, would be a discussion held at the subcommittee level. I would not want to limit the number of witnesses at this point because, of course, we haven't started our deliberations on what in fact occurred on March 25, so I would not want to limit who the witnesses are.

Mr. Bob Delaney: So would it then be hypothetically possible that you could call dozens, many dozens or hundreds of witnesses?

Ms. Sylvia Jones: The witnesses would, of course, have to be related to and have direct knowledge of the March 25 lock-up and subsequent blocking of members going into the Legislative Assembly—the chamber.

Mr. Bob Delaney: And could you define that perhaps a little more closely?

Mr. John Yakabuski: Excuse me, Chair. We have a motion on the floor, not a—this is ridiculous. The member is asking what conditions existed on the motion at the subcommittee? The only thing that has been amended is the motion of the subcommittee. For Mr. Delaney to be asking these questions is ridiculous.

The Chair (Mr. Bas Balkissoon): Mr. Miller tabled his motion. I allowed further debate. Ms. Jones—

Mr. John Yakabuski: A debate is not questions, Chair. If he wants to make a statement, then let him make a statement—

The Chair (Mr. Bas Balkissoon): He's asking for clarification.

Mr. John Yakabuski: —not sitting here asking questions of the person who tabled the amendment. That is out of order. If he wants to make a statement, so be it.

Mr. Bob Delaney: As a matter of fact, Mr. Yakabuski, it is in order.

The Chair (Mr. Bas Balkissoon): My understanding is that he asked for clarification, and Ms. Jones was answering his—

Mr. John Yakabuski: And he continues to badger the person tabling the amendment.

The Chair (Mr. Bas Balkissoon): That's your opinion.

I'll move on. Mr. Naqvi.

Mr. Yasir Naqvi: I was going to say that the member doesn't look that badgered. I think she's quite capable of defending herself too. I don't think she needs any help from anybody else.

I was going to ask for a five-minute recess so that we can consider this amendment to the motion. That's what I was going to ask. And can we see the motion in writing, please?

The Chair (Mr. Bas Balkissoon): Okay. I'll have it printed and circulated.

I have a request for a five-minute recess, so we'll—

Mr. John Yakabuski: Twenty minutes.

The Chair (Mr. Bas Balkissoon): I have 20 minutes, so we'll recess until 12 minutes to 3.

The committee recessed from 1428 to 1449.

The Chair (Mr. Bas Balkissoon): We'll reconvene the meeting. I have a motion by Ms. Jones:

"I move that the sub-committee report be amended by adding the following bullet point to item number 2:

"—and other witnesses as necessary for the work of the committee to be completed, on additional days."

Does everybody understand the motion?

Mr. Ted Chudleigh: Recorded vote.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi, do you have a question?

Mr. Yasir Naqvi: I just want to take the opportunity to thank the OPP officer who came to this proceeding. Unfortunately, he was not able to testify, and that is regrettable. He is, I believe, retired and was on his vacation. He came to speak to this committee. It is regrettable that he was not given the opportunity to speak.

I ask that we call the vote, please.

The Chair (Mr. Bas Balkissoon): Okay.

Mr. John Yakabuski: Excuse me. Mr. Naqvi wants to make a comment. I think that allows us to make some kind of comment, too. What do you think, Chair?

The Chair (Mr. Bas Balkissoon): If you would like to comment, go ahead.

Mr. John Yakabuski: Thank you very much. I'm not sure what that was all about, Mr. Naqvi, but it was not our intention to delay the OPP officer in his duties, and we appreciate his appearance here as well. His appearance is very important to these proceedings. Had the members on the government side of the committee moved a little more quickly on our request, those deputations would have been heard today. We never asked for anything that was either unusual or untoward.

If you're trying to imply that the efforts that were made today to get the truth out are the reason that this officer was delayed, that's shameful. Don't try to imply that it was the actions of anyone on this side; it is the actions of your people, who failed to recognize the need to bring the truth forward in the best possible way, ensuring everyone got to speak who had something to offer this committee.

The Chair (Mr. Bas Balkissoon): Okay. I'll take the motion.

Mr. Norm Miller: Recorded vote.

Ayes

Jones, Norm Miller, Prue.

Nays

Arthurs, Delaney, Dickson, Mangat, Naqvi.

The Chair (Mr. Bas Balkissoon): That amendment is defeated. I'll now take the vote on the subcommittee report.

Mr. Norm Miller: Mr. Chair, since the government didn't want to support our reasonable amendment, I would request a 20-minute recess to discuss the sub-committee report.

The Chair (Mr. Bas Balkissoon): A 20-minute recess has been requested, but we're going to go beyond 3 o'clock, and we're only here till 3, so we will adjourn and reconvene next Wednesday, which is May 19, at 1 o'clock. Meeting adjourned.

The committee adjourned at 1452.

CONTENTS

Wednesday 12 May 2010

Subcommittee report	M-97
---------------------------	------

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Substitutions / Membres remplaçants

Mr. Wayne Arthurs (Pickering–Scarborough East / Pickering–Scarborough-Est L)

Also taking part / Autres participants et participantes

Mr. Ted Chudleigh (Halton PC)

Mr. Ernie Hardeman (Oxford PC)

Ms. Lisa MacLeod (Nepean–Carleton PC)

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

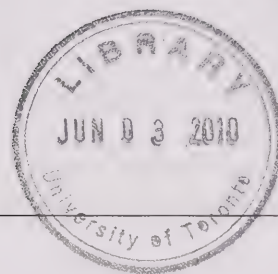
Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Peter Sibenik, procedural clerk,
Journals and Procedural Research Branch

M-6



M-6

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 19 May 2010

Journal des débats (Hansard)

Mercredi 19 mai 2010

Standing Committee on the Legislative Assembly

Members' privileges

Comité permanent de l'Assemblée législative

Privilèges des députés

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 19 May 2010

Mercredi 19 mai 2010

The committee met at 1306 in room 228.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): I call this meeting of the Standing Committee on the Legislative Assembly to order. It's a continuation of our previous meeting. We were in the middle of a vote on the subcommittee report. Shall the subcommittee report carry? Carried.

Ms. Jones, do you want to move a motion?

Ms. Sylvia Jones: Yes.

The Chair (Mr. Bas Balkissoon): Do you have it written?

Ms. Sylvia Jones: Yes. Now I can try to read it.

Mr. Michael Prue: Is it in your own hand?

Ms. Sylvia Jones: No, which will be the challenge. I move that deputations by the two invited witnesses will be preceded by deputations from two Conservative MPPs, Ted Arnott and John Yakabuski, and one NDP MPP, Peter Tabuns. Each of these three deputations shall not exceed 10 minutes, following which each caucus may, at its option, ask questions for a period not exceeding five minutes.

The Chair (Mr. Bas Balkissoon): Any comments, debate?

Ms. Sylvia Jones: My only comment is that this will resolve the issue and concerns that we had last week where we wanted to hear from the individual MPPs affected prior to actually discussing the process.

The Chair (Mr. Bas Balkissoon): Can I take the vote on the motion?

Mr. Michael Prue: I think it's in order to thank my colleagues from the Liberal Party, particularly Mr. Delaney, for having the wherewithal to put forward this motion and to get some support for it from his caucus. This was important to me, and much as I said the other day, it will preface every question that we have of those who made the decision once we know the facts of what actually occurred, because other than the MPPs involved, we don't know that the police people who will be here or the chief of staff were actually present at the time the instructions were carried out. So I thank all sides for being very rational and reasonable here.

Mr. Norm Miller: I would also just like to thank Mr. Delaney for helping to draft the suggested motion and to assist in bringing it about. Thank you.

The Chair (Mr. Bas Balkissoon): Any further comments?

Mr. Yasir Naqvi: As the motion is being drafted, I think it would good to have it in writing as well.

The Chair (Mr. Bas Balkissoon): It's being copied.

Mr. Yasir Naqvi: I'd just ask for a 20-minute break, and then we can come back and deal with it.

Mr. Norm Miller: Do we need 20 minutes? Is five minutes enough?

Mr. Yasir Naqvi: Can we take 10?

Mr. Michael Prue: If we can, because I think part of the intention here is to call these witnesses, and I don't know whether they have been told of this. I certainly have not told Mr. Tabuns, so I'm going to have to go find him and tell him—

The Chair (Mr. Bas Balkissoon): So you want the 20 or the 10?

Mr. Michael Prue: Well, I don't know. I can't go tell him until after we vote.

The Chair (Mr. Bas Balkissoon): Do you want to wait and take the vote? The motion is just being copied; it will just take one minute.

Mr. Yasir Naqvi: Can we get a 10-minute break, please, before we vote?

The Chair (Mr. Bas Balkissoon): We'll be back here in 10 minutes.

The committee recessed from 1310 to 1320.

The Chair (Mr. Bas Balkissoon): I call the meeting to order. Does everybody have a copy of the motion? All in favour of the motion? That carries.

MEMBERS' PRIVILEGES

MR. TED ARNOTT

The Chair (Mr. Bas Balkissoon): We'll revert to the different deputation list. Mr. Arnott.

Mr. Ted Arnott: Should I go down there?

The Chair (Mr. Bas Balkissoon): Yes. You're officially a deputation.

Mr. Yasir Naqvi: We debated that ad nauseam last week.

The Chair (Mr. Bas Balkissoon): You know the rules. You'll state your name for the record, so we have it in Hansard. Committee agreed that we'll hear from you for 10 minutes, and then we'll have questions by each caucus, up to five minutes.

Mr. Ted Arnott: My name is Ted Arnott, and I'm privileged to represent the people of Wellington-Halton Hills in our Legislature.

First of all, I want to thank the committee members for giving me this opportunity to present to you today. I had the privilege of chairing this committee and sitting in that very chair, Mr. Chairman, from 1995 to 1996, and I recall Claude DesRosiers, the Clerk of the day, who informed me, after I was elected the chairman, that this was the pre-eminent committee of the Ontario Legislature, so you should all be proud of your service on this committee. I thank you, especially the government members, for allowing me to make my presentation this afternoon.

I believe that this is a very important matter that we're discussing, and I know all members of the committee are well versed in the Speaker's ruling and why this committee is studying this matter. But I think it does strike at the very heart of members' privileges, so I look forward to offering you my best recollection of what happened about two months ago on budget day, March 25.

At approximately 3:45 p.m. on March 25, many of my PC colleagues and I gathered at the door of the lock-up room, awaiting permission to leave and make our way over to the chamber for the tabling of the budget and the speech by the Minister of Finance. Wanting to be sure that I had adequate time to walk over to the building, I stepped out of the meeting room. My colleagues who were there with me and I were met by uniformed OPP officers in the corridor who were there to provide security. I asked for permission to leave, but the officer stated clearly that he could not allow us to go until he received the okay from the "minister's office."

I initially accepted this, but as the minutes lapsed and no okay was forthcoming, despite the officer's repeated attempts to obtain clearance by way of his two-way radio, I became increasingly insistent. I told the officer he simply had to let us go so that we could be in our seats by 4 p.m. He repeatedly replied that we could not go until the "minister's office" gave him the go-ahead. No earlier than 3:55 p.m., we were finally released.

I literally sprinted from Whitney Block to the Legislature, as did most of my colleagues. As we entered the chamber, some government members jeered and taunted us, in front of the many invited guests, for the fact that we were late. The consequences of our having been blocked until 3:55, therefore, were significant to us.

Let me be clear: In no way do I fault the OPP. The officers who were there providing security were simply doing their job.

However, I'm left with several questions in my mind. Who in the minister's office was responsible? Who has been held accountable, if anyone, and why? Why has no apology, or at least an explanation, been forthcoming?

My understanding is that there was a protocol in place for budget day, and it appears not to have been followed. What assurances do we have that the protocols will be reviewed to ensure that MPPs in lock-ups on budget day in the future will be released with sufficient time to make their way to the chamber for the start of the minister's

budget speech? This is, without question, part of our legitimate work as members.

I believe that it is incumbent on the committee investigating this breach to do more than simply assign blame. It must ensure the Legislature and its members are respected by governments. It must play a role in future protocols for such events, as well as offer recommendations for accountability when protocols are not followed. Such important matters cannot be delegated to the government alone, particularly when there is an open question as to its part in the breach.

I'm certainly happy to take any questions that members might have.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: Thank you, Mr. Arnott.

Mr. Michael Prue: On a point of order, Mr. Chair, if I could: It was my understanding that the witnesses were to be sworn in.

The Chair (Mr. Bas Balkissoon): Members have already taken oath of office, so they don't have to. I believe only the visiting witnesses do.

Mr. Michael Prue: All right. I just want to make sure of that. Okay, that's fine. I accept that.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: Thank you, Mr. Arnott. I'm not going to guess: You have been a member of the Legislative Assembly since—

Mr. Ted Arnott: Since 1990.

Ms. Sylvia Jones: Have you ever in that tenure heard of or been involved in another situation where members of the Legislative Assembly were not able to fulfill their duties because of a ministerial directive or letter from the minister's staff—whatever was the reason?

Mr. Ted Arnott: In terms of being able to leave a lock-up and be present in the chamber for the budget?

Ms. Sylvia Jones: Yes.

Mr. Ted Arnott: No, I have not. I've never heard of another example.

Ms. Sylvia Jones: Was there ever an example where the OPP officer or legislative security said you have to wait until a certain time or a certain phone call before proceeding?

Mr. Ted Arnott: That I don't know. This is the first time that I went to a budget lock-up in advance of the budget. It was the first time I've ever participated in a budget lock-up, let's put it that way, but I know that many members of our caucus have through the years, when we were in government and when we were in opposition going back to 1990, especially our finance critic and some of the other members who wanted to be prepped in advance of the budget. It is a tradition, and many members have availed themselves of that opportunity, but I personally have not until this past year.

Ms. Sylvia Jones: You cannot, in your recollection, recall another member of your caucus, or even another MPP, being late for a budget presentation as a result of delays at the lock-up?

Mr. Ted Arnott: It may be the case that members were late in the past, but I don't recall any member

feeling that they had to literally sprint to get from the room where the lock-up was taking place and still arriving late.

Ms. Sylvia Jones: Good thing you're in good shape.

Mr. Ted Arnott: Thanks.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: When you were waiting at the budget lock-up to come across the road to Queen's Park, what other members were nearby you? Were you at the front of the line close to the police officer, or were you midway down the line?

Mr. Ted Arnott: I wanted to be in the chamber at 4 o'clock, so, yes, I was probably the closest one to the door, and I actually stepped outside the room, knowing that the security staff were in the corridor. Our colleague Elizabeth Witmer was there. I believe our colleague John Yakabuski was close to the door. All of our members were close to the door because we knew that the briefing was done, the opportunity was concluded, and it was time that we started making our way over there in order to be in the chamber and in our seats at 4 o'clock.

Mr. Norm Miller: You said when you arrived at the Legislature, you were one of the first members of the opposition to arrive?

Mr. Ted Arnott: My recollection is Gerry Martiniuk, the member for Cambridge, was already in the chamber, but I don't think he came over to the lock-up. That's my recollection. I think John Yakabuski and I were the first of the members who had been in the lock-up to make it in. That's why I rose on a point of order: because it appeared to me that the government was making fun of our party for being late or not being in our seats. I thought it was important to point out why we weren't in our seats, and that's why I rose on the point of order.

Mr. Norm Miller: So when you were jeered, and since then, did you think this was something that was planned by the government to embarrass the opposition?

Mr. Ted Arnott: I don't know for sure what happened, but it certainly is plausible to imagine that someone thought that it would be perhaps amusing if we were late—someone in the minister's office, perhaps—but I have no firm evidence. It's just a possible explanation. If that were the case, certainly that person should be disciplined, as far as I'm concerned, and informed of the unacceptability of that kind of a trick.

Mr. Norm Miller: So the questions you asked, who's responsible for the obstruction of members so they couldn't—

Mr. Ted Arnott: Again, the OPP officer wanted to let us go, but he kept saying, "I need the okay from the minister's office."

Mr. Norm Miller: Do you recall how the okay came?

The Chair (Mr. Bas Balkissoon): I have to move on to the next party. Mr. Prue?

Mr. Michael Prue: I want to go on that same point, and I think this is key: Did the OPP officer indicate from whom he was seeking the permission in the minister's office?

Mr. Ted Arnott: The minister's office—he didn't say, by name, who in the minister's office. He said, "from the minister's office."

Mr. Michael Prue: How many times did he attempt to call?

Mr. Ted Arnott: I believe twice, at least.

Mr. Michael Prue: Twice, at least.

Mr. Ted Arnott: Yes.

Mr. Michael Prue: Was he doing this on a cellphone or on his walkie-talkie?

Mr. Ted Arnott: He had a radio system on his chest, like a two-way radio.

Mr. Michael Prue: So he pulled it off and he called somebody?

Mr. Ted Arnott: Yes.

Mr. Michael Prue: Whoever was at the end of the radio system, whoever had the radio, that would be the person?

Mr. Ted Arnott: We would assume.

Mr. Michael Prue: So we'll perhaps try to determine who had that radio. Also, he tried twice. Did anyone attempt to simply go past the OPP officer. If not, why not? Members have privilege—

Mr. Ted Arnott: I was at the front. I thought it was important to respect his role as an OPP officer providing security pre-budget. I didn't feel it was appropriate to literally walk over him or around him.

1330

Mr. Michael Prue: Because in common law no OPP officer can obstruct anyone unless they're under arrest. That's pretty clear. I'm just wondering—I need to know your frame of mind—

Mr. Ted Arnott: I respect the OPP. I respect the uniform. I respected the individual officer who had a job to do, and I didn't feel it was appropriate for me personally to flout that by walking around him and defying his authority, quite frankly.

Mr. Michael Prue: Did he let you go upon receiving information, or did he finally, in exasperation—

Mr. Ted Arnott: He finally said, "It's okay to go."

Mr. Michael Prue: So he got some information on his walkie-talkie?

Mr. Ted Arnott: And I believe that was at about 3:55, according to my watch, or even 3:55 and a bit—less than five minutes to get over from where we were to the chamber.

Mr. Michael Prue: So someone called him finally—

Mr. Ted Arnott: I believe so.

Mr. Michael Prue: —he answered his walkie-talkie and he said, "You're free to go"?

Mr. Ted Arnott: I wasn't listening to his walkie-talkie—

Mr. Michael Prue: No, no, I know.

Mr. Ted Arnott: —but I believe that he got the word that it was okay for us to go, because he seemed to—

Mr. Michael Prue: And did he indicate to you in any way who that person was on the other end?

Mr. Ted Arnott: He did not.

Mr. Michael Prue: So finally, you got to go. I think, just for the record, we need to know the approximate distance. I've walked it many times myself. It's a lot more than a five-minute walk.

Mr. Ted Arnott: You could estimate too. I don't know exactly what the distance is. It's across the road; there are some steps involved.

Mr. Michael Prue: Did anyone accompany you? Because that's usually part of the protocol, that the OPP officers walk with you right into the council chamber.

Mr. Ted Arnott: I don't know if there were—as I say, I literally sprinted as fast as I could go. In 1980, I was the senior boys' champion in the 100 metres at the Arthur District High School, which was my greatest athletic achievement in high school. I've slowed down considerably in the last 30 years—

Mr. Michael Prue: As, unfortunately, have we all.

Mr. Ted Arnott: —but I ran as fast as I could, so there was no OPP at my—

Mr. Michael Prue: But you did not go in a group? You went individually and ran as fast as you could?

Mr. Ted Arnott: I wanted to be in the chamber at 4 o'clock, as I—

Mr. Michael Prue: And was Mr. Yakabuski—I know he has recently had a knee operation—sprinting with you?

Mr. Ted Arnott: I wasn't looking over my shoulder to see where Yakabuski was.

Mr. Michael Prue: Okay, so you were alone out in front. Is that fair?

Mr. Ted Arnott: I guess so. I don't know.

Mr. Michael Prue: All right. Do I have more time?

The Chair (Mr. Bas Balkissoon): Yes, you still have about a minute and a half.

Mr. Michael Prue: Wow, okay.

When you got to the Legislature, you said you were greeted by jeers and things like that. I don't know how germane that is, but can you tell us how you felt as a result of what happened to you?

Mr. Ted Arnott: I was upset that this was happening in front of many invited guests who had come for budget day, that it appeared that we were coming in late as Conservative members and that the government members were audibly laughing at us for being tardy. We weren't tardy for any reason other than that we had been held back too long at the budget lock-up.

Mr. Michael Prue: Did you pass any government members on your sprint from the lock-up to the Legislature that were already free to go and—

Mr. Ted Arnott: The Conservative members were in our own separate room, so I don't know where the government members were: in their lock-up or—I have no idea where they were. I don't recall seeing any on the way over.

Mr. Michael Prue: There are—

The Chair (Mr. Bas Balkissoon): Time is up. We've got to move to the next questioner.

Mr. Michael Prue: I had one last quick point.

The Chair (Mr. Bas Balkissoon): Any further questions? Mr. Naqvi?

Mr. Yasir Naqvi: I just wanted to say to Mr. Arnott that we should go running some day together, since you're a good runner.

I just want to thank you for your deputation. I really appreciate it.

Mr. Ted Arnott: Thank you.

Ms. Sylvia Jones: Can we use his time?

The Chair (Mr. Bas Balkissoon): Those aren't the rules you gave me.

Mr. Yasir Naqvi: No, that's not the deal.

The Chair (Mr. Bas Balkissoon): I'm under strict rules when you make them.

MR. JOHN YAKABUSKI

The Chair (Mr. Bas Balkissoon): The next deputant is Mr. Yakabuski. Please come forward. State your name for the record, as you know the rules. The committee rules are that you have 10 minutes to present, and there'll be five minutes from each party as we go around the room.

Mr. John Yakabuski: John Yakabuski, member of provincial Parliament, Renfrew–Nipissing–Pembroke.

The Chair (Mr. Bas Balkissoon): Go ahead.

Mr. John Yakabuski: My story is not much different than Mr. Arnott's. I don't have my notes with me because I was rushing from another meeting.

At 3:45, after having been in the lock-up for several hours—and the protocol had been given to us that at some point after 3:45, around 3:45, we would be escorted back to the chamber for the hearing of the budget. Mr. Arnott, Liz Witmer and I were three of the first people out because, quite frankly, we'd been in the lock-up and ready to go long before 3:45. So when 3:45 hit, we were anxious. We were immediately advised by the OPP officer on duty that we would be allowed to go momentarily, but not just at this moment.

Time continued to pass. Mr. Arnott says that at least two—I would agree, at least two; I think I heard three communications with people. Again, as Mr. Arnott said, when we asked why—the first time we didn't ask a question, and then when he said, "You still can't go," we asked why, and it was because we didn't have the authorization from the minister's office.

He further volunteered, though, when we asked him again, "You can't go yet because the Liberal members are on their way from the lock-up." So they were released, and what I found peculiar about that was, did he think there was going to be a game of tackle football on the way? We're in the chamber together all the time. There was no reason for one party to be fully released before another party was released. But we didn't argue with the officer, as Mr. Arnott said, because we respected the role he was playing and he was only following orders.

That continued, and it was definitely well after 3:55 because we didn't get there on time. It's not a five-minute run to the Legislature. When we did get in we were greeted by some jeering from the members of the opposition. I couldn't identify it because it was just noise. I can tell you that the members of the public reacted.

They looked at us and the message of the jeering was a “What are the Tories up to now?” sort of thing. That’s the way I saw it or heard it. The members of the public would have wondered what the Tories were up to; it was embarrassing. I can tell you that at no time was an explanation given to the members of the public, many of them dignitaries and stakeholders, as to why the delay for the Conservative members in getting to that budget.

I certainly would be asking who is responsible, who made that call, who made that decision. There was never an issue in our protocol—I don’t have it in front of me, but I am quite confident in saying that it never said that you would be released when the minister’s office said you would be released. You would be released and escorted at 3:45 or sometime after 3:45.

I don’t recall any escort, because once we were released it was a mad dash. I can tell you, if Ted Arnott thinks he’s fast, you want to see Liz Witmer running in high heels. That was actually pretty impressive, quite frankly; I can’t even imagine standing in them. There was no escort at that point because the decision was made, clearly by somebody, that this has gone on way too long, let them go.

When we got into the chamber, I also rose on a point of order as the House leader because the Speaker was about to allow the Minister of Finance to start with the budget and he was about to allow the pages to deliver it. I asked for a delay in the proceedings because I just felt it was completely out of order that this proceeding would start before the members had an opportunity to get there, through no fault of their own, because they were being held in lock-up.

The Speaker agreed. It was delayed until our members were able to assemble. Also, I do recall Gerry Martiniuk in the House; I’m not sure if we had another member. We may have had another member in the House at that time. I’m not positive, but I do believe we had another member in the House at that time. Clearly it was not a boycott, which some members of the public may have thought, because we did have members there. I know that Gerry Martiniuk was not at the lock-up, so he was able to get there in time.

That is my recollection. I was also conversing with the officer. I was asking those questions directly, as was Mr. Arnott, and I distinctly remember asking the question, “Why are we not allowed to go?” In response to a question that Mr. Prue made to Mr. Arnott, I’ll just say that that thought of going ahead crossed my mind. I mused about it but I was also concerned that doing something like that under those circumstances could only further delay what was happening there if the OPP officer felt he had to in some way react to me not listening to his directives that we wait until such time as being released. So we didn’t want to create a greater scene than was already being created at that time.

1340

That’s my recollection of the events of the pre-budget lock-up and the trip over to the Legislature. I’ll take any questions.

The Chair (Mr. Bas Balkissoon): We’ll go to Mr. Prue first.

Mr. Michael Prue: First, I just want to make sure 100% that you were released but you were not accompanied—no police officer went with you or anybody who was with you. Did you travel alone? Did you sprint and you were the second-fastest? Or did you go as a group?

Mr. John Yakabuski: Well, now you’re going to embarrass me, but I was actually third. Liz in her high heels was actually ahead of me, but I passed her crossing the road. I think traffic might have slowed her down. Getting out of the—is it the Whitney Block? Is that the—

Ms. Sylvia Jones: Macdonald.

Mr. John Yakabuski: Getting out of the Macdonald Block, Ted Arnott and Liz Witmer were ahead of me.

Mr. Michael Prue: Was there any police officer with you?

Mr. John Yakabuski: They initially started, until we started going by where the Liberal lock-up was and there must have been 20 officers standing there. Once we got past that then we just tore.

Mr. Michael Prue: So they accompanied you as far as the Liberal lock-up?

Mr. John Yakabuski: That’s about it; that was the last I saw of a police officer.

Mr. Michael Prue: My next question is—and I think this is key, this is a very important point—the OPP officer told you, “You cannot go until the Liberals are on their way”? I think those were your exact words. I tried to write them down as you spoke.

Mr. John Yakabuski: I’m not sure how I said them exactly because I didn’t write them, but what he said was, “The Liberals are still making their way”—if I can paraphrase what I said myself, how I understood it—“We can’t release you because the Liberals are still making their way. They haven’t exited.”

Mr. Michael Prue: All right. As the officer would have understood it, the Liberals were allowed to go first and then you were allowed to go later? That’s the way I—

Mr. John Yakabuski: I can’t tell you what he understood. I can tell you what he said to me.

Mr. Michael Prue: Is that the way you understood it?

Mr. John Yakabuski: That’s the way I understood it.

Mr. Michael Prue: That the Liberals were allowed to go first and after they were safely gone then you could go?

Mr. John Yakabuski: That is exactly the way I understood it.

Mr. Michael Prue: So he differentiated, that officer, perhaps under his instruction—and we’ll find out—that the Liberals had the first opportunity to leave and you had a subsequent, either the second or the third, opportunity to leave?

Mr. John Yakabuski: You’d have to ask him that, but that’s the way I understood it, because what he said to me was that the Liberals had not exited, to that effect, that they were still on their way, and once they had cleared they were going to be releasing us.

Mr. Michael Prue: You also stated that Mr. Arnott had asked the question, and you were in the room to hear that he had asked the question, of the OPP officer, and then you reiterated that you agreed with what he said but also said that you had, as well, asked a question as to why you couldn't leave.

Mr. John Yakabuski: We were both talking, we may have been asking questions simultaneously, and he may have been answering both of us at the same time, but we were both speaking either simultaneously or at different times, because we were both there fairly close together.

Mr. Michael Prue: Were any of your questions different from Mr. Arnott's?

Mr. John Yakabuski: No, it was all about—well, I can't remember the exact conversation, but I may have said, "Look, why are we being held up? We were told we'd get out of here, get our BlackBerrys and go." There might have been exchanges, but I know I would've been talking more than Mr. Arnott.

Mr. Michael Prue: In terms of the BlackBerry, did you have to wait to retrieve that after you were told you could go or did they give that back to you first?

Mr. John Yakabuski: I didn't actually have my BlackBerry there; I was just talking about people in general. I never took my BlackBerry there; I left it in my office, so I never actually had to hand in my BlackBerry, but other people did. They were getting their communications devices. I didn't have mine with me.

Mr. Michael Prue: There are press conferences during the budget lock-up. You were either present in the room, I guess, with Mr. Hudak, who would have addressed—or you would have been able to watch it on television, because I've been in those lock-ups. Were there other Liberals present with the finance minister and/or the Premier when that lock-up took place?

Mr. John Yakabuski: I never saw the Liberals' press conference.

Mr. Michael Prue: You never saw their press conference?

Mr. John Yakabuski: No. I saw ours and I saw Andrea Horwath's.

The Chair (Mr. Bas Balkissoon): We'll move on to the next question. Mr. Naqvi.

Mr. Yasir Naqvi: Thank you, Mr. Yakabuski, for your deputation. How long have you been elected, sir? Since what year?

Mr. John Yakabuski: Since 2003.

Mr. Yasir Naqvi: Has something similar like this ever happened before, as it relates to budget lock-ups?

Mr. John Yakabuski: This is the first lock-up I've been to, but I don't ever recall budget day not having all our members in the House at the time, other than those we knew weren't going to be there, who maybe were away or whatever. I've never known of any member being detained or late because of being detained.

Mr. Yasir Naqvi: Great. Thank you.

Mr. John Yakabuski: You're welcome.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: On the record, I'd like to support both what the former deputant, Mr. Arnott, and also Mr. Yakabuski said—not in the form of a question but what they've testified to. I also stood adjacent to where Mr. Yakabuski and Mr. Arnott were. I also made the same request of the officer present. I saw him activate his radio, make the request and reply, "No, we can't let you go yet." I was there and I heard the assertions: "Why can't we go?" People were getting their BlackBerrys. Mr. Prue asked, "Did you think of just going?" The thought crossed my mind. I was tempted to do that, but I've got family who are members of the police force, the OPP, and I thought better of it. I know they were placed in a difficult situation. They were asked to do things and have to do—they were following orders. Those were their orders, so they had to do that.

My only question would be, I think there needs to be another thought about this for another time, because I don't think it's right that people have to rush to be there to do their job. Our responsibility was to be in the chamber. Would you agree with me, Mr. Yakabuski, on that point?

Mr. John Yakabuski: I wasn't the high school sprinting champion in 1980 or whatever; I was out of high school long before that. I don't mind having to sprint, but I don't think that was ever the design or the expectation for us as members, to have to go into a dead run to get to the budget. Case in point: Most of our people didn't get there. If we had not held up the proceedings, they would not have been there for the start. And how disruptive would that have been? I mean, then you're going to have to have members coming in during the presentation.

Mr. Robert Bailey: I agree. I thought it was very unprofessional the way that it was allowed to happen, that we were delayed and had to make a late entrance. It was disrespectful to our guests who were there. I blame whoever gave those police officers those orders. They need to be held responsible and they need to make an apology to the Legislature as a whole, to the members of our caucus and, I think, to all the assembly, because they embarrassed all of the assembly.

I'll cede the rest of my time to Ms. Jones or Mr. Miller.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: You mentioned in your presentation that there was no apology in the House. You also asked the question that you want to know who's responsible for this. What sort of apology do you think would be appropriate?

Mr. John Yakabuski: I never mentioned an apology. I think I mentioned an explanation as to how—even at the time, I think it would have been appropriate for the government to allow an explanation or to give an explanation, that "It is our information that the members of the opposition have been held up at the lock-up and are late not of their own accord but because of"—they could say whatever they wanted at that time. Call it a miscommunication; they could do that if they want. But I

think it would have been appropriate to all of those stakeholders and those dignitaries there that day that it be explained that this was not a designed thing on the part of the members of the official opposition.

The Chair (Mr. Bas Balkissoon): Ms. Jones, last question.

Ms. Sylvia Jones: You play another role, of course, as the House leader. Have there been any subsequent discussions about why it happened and how to ensure it's not going to happen again in future budget lock-ups? Have any of those discussions taken place?

1350

Mr. John Yakabuski: None.

Ms. Sylvia Jones: So we really have no resolution in terms of ensuring that this doesn't occur again?

Mr. John Yakabuski: Well, we've had no discussions. I hope that perhaps these hearings will precipitate a discussion among House leaders, leaders, whips or whoever the appropriate people would be.

Ms. Sylvia Jones: And a standard procedure?

Mr. John Yakabuski: To ensure that this never happens again.

The Chair (Mr. Bas Balkissoon): Thank you very much.

Mr. John Yakabuski: Thank you, Mr. Chair.

The Chair (Mr. Bas Balkissoon): Time is up, and I hate to cut you short, but thanks very much for your input.

Mr. John Yakabuski: Thank you.

MR. PETER TABUNS

The Chair (Mr. Bas Balkissoon): The next person is Tim Shortill—

Interjections.

The Chair (Mr. Bas Balkissoon): Oh, Mr. Tabuns, sorry; my mistake. Mr. Tabuns?

Mr. Peter Tabuns: Be nice to me.

The Chair (Mr. Bas Balkissoon): I didn't see you sitting there. I'm looking at my notes.

Mr. Peter Tabuns: I was trying to look small, I guess.

The Chair (Mr. Bas Balkissoon): Sorry about that.

You know the rules. State your name for the record. You have 10 minutes to make a presentation and then we'll allow five minutes of questions per party.

Mr. Peter Tabuns: Sure. My name is Peter Tabuns. I'm the member of provincial Parliament for Toronto-Danforth, and I'm here simply to relate my experiences the day of the lock-up. I'm the finance critic for the Ontario NDP.

I had gone into the lock-up at roughly 1 o'clock. I participated in the media conference with our leader, Andrea Horwath, and at approximately a quarter to four, Andrea and I talked and said, "You know, it's about time to get over to the House so we can get in, settle in, prepare to listen to the finance minister and after that, prepare to deal with the media."

At about a quarter to four, Andrea and I tried to leave the lock-up room and the two women who were attending said, "No, I don't think you can do that." They, as I recollect, turned to the OPP guards, who said, "Yes, you can't leave yet." I thought, well, a quarter to four; surely at this point there isn't a problem. But we thought okay, we'll wait a few minutes. They said, "Just wait a bit."

At about 10 to four I asked again, and they said, "No, you can't go yet." My recollection was that it was about five to four, maybe a little bit past that when, on further questioning, they said, "Yes, you actually can now go over to the House." I think this was about the same time that the PC lock-up was opened as well. In a mass, all of us went with the OPP towards the Legislature at a pretty good clip. We didn't want to be late. The OPP escorted us out of the Whitney Block, ultimately across Wellesley Street.

My recollection is that as we got to the top of the stairs on the second floor, I was told by one of the security personnel, "You'd better move fast. The Lieutenant Governor's coming and if you don't get in right now, you won't be able to get in." So we ran across, got in and got to our seats. My recollection is that the minister had started speaking at that point.

That's my memory of what happened that day.

The Chair (Mr. Bas Balkissoon): Okay, questions? From the government side, Mr. Naqvi?

Mr. Yasir Naqvi: Thank you, Mr. Tabuns, for your deputation. Just a couple of quick questions. You've been elected since what year?

Mr. Peter Tabuns: Since 2006.

Mr. Yasir Naqvi: Since 2006. And in your experience, has something, a delay of that nature as it relates to a budget lock-up, ever happened before?

Mr. Peter Tabuns: Well, it was the first provincial budget lock-up I'd ever been in. I was surprised that at a quarter to four we were not being allowed to leave and go to take our seats in the Legislature.

Mr. Yasir Naqvi: But from your previous experience from the budgets of 2007, 2008 and 2009, you were able to make it to your seat on time?

Mr. Peter Tabuns: When I was not the finance critic and not part of the lock-up, absolutely I was able to make it on time.

Mr. Yasir Naqvi: And perhaps could you recall maybe other members of your caucus who were part of the lock-up? Were they on time?

Mr. Peter Tabuns: I can't recollect exact individuals. My recollection has been that when we were in the House at the start of the finance minister's speech in the past, all or most of the members of the caucus were present when I sat down.

Mr. Yasir Naqvi: Okay. Thank you very much, sir.

The Chair (Mr. Bas Balkissoon): Thank you. We'll move to the opposition. Mr. Miller?

Mr. Norm Miller: Thank you, Peter, for your presentation.

The one thing I guess I wanted to question is that the Lieutenant Governor wasn't actually in the House for the

budget presentation; it was just the Minister of Finance making the speech itself. You mentioned that somebody said the Lieutenant Governor was—

Mr. Peter Tabuns: As we were coming up the stairs and getting to the top of the stairs in front of the legislative chamber, I was told, “The Lieutenant Governor’s coming. You’re going to have to move fast to get in ahead.”

Mr. Norm Miller: Okay, so maybe that was just what someone said. But he doesn’t actually come in for the budget presentation.

Mr. Peter Tabuns: Yes.

Mr. Norm Miller: On the timing, when you arrived in the Legislature, was the opposition there? You and Andrea arrived; were any of the PC Party there, the opposition?

Mr. Peter Tabuns: I couldn’t name any individuals, Mr. Miller. When I cast back to my memory, I think there were some there, but I can’t say who was there and who wasn’t.

Mr. Norm Miller: I think Mr. Yakabuski stated that Mr. Martiniuk was there because he didn’t go to the lock-up. I think—I was personally arriving shortly after Mr. Yakabuski and Mr. Arnott and there were none of our members there, and I believe you were, at that time, already in your seats.

So you think, in terms of time, that it was 3:55 or a little past 3:55 that you were released from the lock-up, and you say you were escorted by the OPP right across—did you walk across the street?

Mr. Peter Tabuns: From Macdonald Block through Whitney and then across Queen’s Park Crescent with the OPP officer stopping traffic.

Mr. Norm Miller: That’s different from certainly what Mr. Yakabuski and Mr. Arnott said. They said the OPP escort stopped somewhere before crossing the street, and that also jibes with—I’m not saying that you’re—

Mr. Peter Tabuns: Sorry, different people—there was a long line of people. There was a crowd. I walk fairly fast. I think I was fairly close to the head of the crowd. At that point, the OPP officer who was with us went out onto the street to stop traffic.

Mr. Norm Miller: I suspect that you, then, because you got to the Legislature in front of the PC members, you were ahead of the PC members, because certainly by the time I came along, which was behind Mr. Arnott and Mr. Yakabuski, there was no OPP escort or any political staff.

Mr. Peter Tabuns: I can’t speak to that.

Mr. Norm Miller: So you left at 3:55 or later. That means the PC Party or the opposition was released at virtually 4 o’clock or very close to 4 o’clock, and that’s probably why they weren’t there when the budget presentation started.

Go ahead, Sylvia.

Ms. Sylvia Jones: Have you ever been in a situation where you were precluded from leaving a lock-up previously?

Mr. Peter Tabuns: I haven’t been at a provincial budget lock-up before. I took part in the federal lock-up

in 2005 for the Martin budget. No—that was 2005, that year’s budget. But I was on staff then, not an MP. There were restrictions on circulation, without a doubt.

Ms. Sylvia Jones: Were you surprised when you were told by the OPP officer that they had to wait for instruction as to when they would release you and your leader?

Mr. Peter Tabuns: Yes, very surprised. If it had been 2 o’clock, I could have understood that. At quarter to four, we were all in a position where we had to go over to the Legislature. I was quite surprised.

Ms. Sylvia Jones: Going into the lock-up, you certainly did not anticipate, either through instructions from your House leader or discussions with the OPP going in, that you would be precluded from leaving at the appropriate time to get to your seat for the 4 o’clock presentation.

Mr. Peter Tabuns: I never expected, from anything I’ve been told, that I would not be able to get to the House in good time on an orderly basis.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: Yes, a couple of questions. First of all, you identified two women who said you couldn’t go. Who were they?

Mr. Peter Tabuns: They were staff who were looking after the BlackBerrys when we went into the lock-up. I don’t know who employs them; I don’t know which ministry. They obviously were on a working relationship basis with the OPP officers who were there, because they were all addressing each other by name.

Mr. Michael Prue: I would take it, then, as staffers they were wearing their ID tags.

Mr. Peter Tabuns: Mr. Prue, I cannot remember.

Mr. Michael Prue: Okay. But you took them to be staffers.

Mr. Peter Tabuns: Well, they were sitting at a table. They had bulletin boards. They had boxes with BlackBerrys in them. They signed me in. So I assumed, given the OPP were there as well, that they were officially connected to the process.

Mr. Michael Prue: They were the first ones to tell you “no.”

Mr. Peter Tabuns: Yes.

Mr. Michael Prue: The second one to tell you “no” was an OPP officer.

Mr. Peter Tabuns: Correct.

Mr. Michael Prue: Was that a male or a female officer?

Mr. Peter Tabuns: Male.

Mr. Michael Prue: A male officer. Did he give you any rationale? Did he tell you why he was not letting you go?

Mr. Peter Tabuns: “Can’t go yet,” I think was the sum total of it, “but soon. Just wait.”

Mr. Michael Prue: Did he attempt to contact anyone on his cellphone or a walkie-talkie or any other communications device?

Mr. Peter Tabuns: I can't remember clearly enough to give you clear evidence on that.

Mr. Michael Prue: Did he get any instruction before he let you go?

Mr. Peter Tabuns: Yes, he did.

Mr. Michael Prue: Who did he get the instruction from? Somebody physically, or on a phone or a walkie-talkie?

1400

Mr. Peter Tabuns: I believe he got the instruction by phone or another telecommunications device just before they said, "Fine, you can go."

Mr. Michael Prue: So someone called him.

Mr. Peter Tabuns: Yes.

Mr. Michael Prue: You don't remember him calling out? He was waiting for that phone call?

Mr. Peter Tabuns: I do not remember.

Mr. Michael Prue: Okay. Now, you said that you all went together and the Conservative caucus was meeting, as I understand, in a separate room. They were in—

Mr. Peter Tabuns: I think it was the next room over.

Mr. Michael Prue: Do you remember whether you proceeded out ahead of them or whether you proceeded after them?

Mr. Peter Tabuns: We were mixed in together fairly quickly, but as I say, I'm a very fast walker and I think I was getting towards the head of that crowd fairly quickly.

Mr. Michael Prue: The OPP officer was definitely with you as you crossed the street and he held up the traffic?

Mr. Peter Tabuns: Yes.

Mr. Michael Prue: Was that the same OPP officer who told you that you couldn't go and then finally said you could? Or was it a different—

Mr. Peter Tabuns: No. There were a number of OPP officers. The one who held up traffic was not the one who had initially said, "No, you can't leave."

Mr. Michael Prue: Now, when you got to the Legislature, someone told you, "You had better hurry. The Lieutenant Governor is on his way." Was that an OPP officer or one of the legislative officers, or someone else?

Mr. Peter Tabuns: I think it was one of the legislative officers, but I can't remember which one.

Mr. Michael Prue: Someone who was inside the precinct here said, "You'd better hurry."

Mr. Peter Tabuns: Yes.

Mr. Michael Prue: Okay. You got in in time. The minister had already started to speak—

Mr. Peter Tabuns: That's my recollection.

Mr. Michael Prue: Was there any difficulty that you had getting into the room after?

Mr. Peter Tabuns: No. Once I got into the lobby, getting into the chamber was no problem.

Mr. Michael Prue: I think those are my questions. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much, Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair.

The Chair (Mr. Bas Balkissoon): Thanks for giving us your input. Mr. Naqvi?

Mr. Yasir Naqvi: Mr. Chair, I'm just mindful of the time, and I'm really conscious of the time put in by the OPP officer who's here. I really want to make sure that he gets the chance to answer all of our questions, so I was suggesting that perhaps I could put forth a motion, and my friend agrees, that he can testify before Mr. Shortill. That way, we can ensure that his testimony is in, just in case we run out of time before 3 o'clock. Is that—

The Chair (Mr. Bas Balkissoon): If I have agreement from all sides. I'm in your hands as—

Mr. Michael Prue: Since the OPP officer who sat here the last time had to leave, and who has since retired—

Mr. Yasir Naqvi: Yes, and his home is far away from Toronto, so he has travelled a great distance.

Mr. Michael Prue: Given the distance he has travelled and the fact that he was here before, I would accede to that.

The Chair (Mr. Bas Balkissoon): So we have agreement on all sides? Okay.

Mr. Yasir Naqvi: Thank you.

MR. NICHOLAAS CLITEUR

The Chair (Mr. Bas Balkissoon): We'll call Mr. Knox and Mr. Cliteur. If you could both come forward. This is a hearing of the Legislative Assembly committee, so we need you to take an oath. You can sit down. The clerk will do one at a time.

Mr. Michael Prue: We're only going to hear one witness at a time?

The Chair (Mr. Bas Balkissoon): Yes.

Mr. Michael Prue: Okay.

The Clerk of the Committee (Ms. Tonia Grannum): Do you solemnly swear that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Nicolaas Cliteur: So help me God.

The Chair (Mr. Bas Balkissoon): Can you state your name for the record?

Mr. Nicolaas Cliteur: Yes. My name is Nicolaas Cliteur. I'm a sergeant with the Ontario Provincial Police stationed at Queen's Park detachment.

The Chair (Mr. Bas Balkissoon): Okay. You can sit and then we'll do the other oath. Go ahead, the next oath.

The Clerk of the Committee (Ms. Tonia Grannum): Do you solemnly swear that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Daryl Knox: So help me God.

The Chair (Mr. Bas Balkissoon): Can you just state your name for the record?

Mr. Daryl Knox: My name is Acting Inspector Daryl Knox. I'm the acting detachment commander for Queen's Park OPP.

The Chair (Mr. Bas Balkissoon): Okay. We're going to have questions from all sides, so I will start with the opposition.

Mr. Michael Prue: I do not think you can have two people giving testimony at the same time under oath. That flies in the face of every statute I know in Canada, including the inquiries act. Only one person can be examined at one time. You can't examine two of them at the same time.

The Chair (Mr. Bas Balkissoon): Okay. I'll have to go based on my subcommittee report. I didn't have names. Which one would you prefer first, committee?

Mr. Michael Prue: I think the one who is retired and has travelled a great distance should go first.

The Chair (Mr. Bas Balkissoon): Okay; Mr. Cliteur. All in agreement? All right. We'll start with the opposition. Mr. Miller.

Mr. Norm Miller: Thank you for your time coming today and last week as well. We appreciate you coming in.

To begin with, what was the role and responsibility that you had on budget day, March 25?

Mr. Nicolaas Cliteur: I had been the officer designated in charge of the entire budget lock-up, from when we went into lockdown with the Minister of Finance at the end of February right through to budget release day. I was the officer in charge of the entire unit on March 25, budget release day.

Mr. Norm Miller: Where were you physically at close to 4 o'clock on March 25? Were you either at the door of the opposition lock-up or the third party lock-up? Where were you physically on that day?

Mr. Nicolaas Cliteur: All the reference made to an officer doing all the communication to get the clearance was me.

Mr. Norm Miller: So you were physically at the door?

Mr. Nicolaas Cliteur: Yes, sir.

Mr. Norm Miller: At which door?

Mr. Nicolaas Cliteur: I was situated probably right in the middle between where the Progressive Conservatives and the New Democratic Party were in lock-up. I was probably right in the middle, waiting for the okay to go.

Mr. Norm Miller: I was obviously in the Progressive Conservative lock-up, but I don't remember seeing any of the NDP anywhere nearby. I thought there was an officer who was right at the front of our lineup and another different officer at the front of the third party's—

Mr. Nicolaas Cliteur: The rooms were side by side, sir, and I would say that I was right smack in the middle between the two doors as both sets of party members started coming out at about quarter to four.

Mr. Norm Miller: Did you have a copy of the protocol, then, that was established for the budget lock-up?

Mr. Nicolaas Cliteur: Sir, I had a time frame of when events were to happen. I don't know if you want to call that protocol, but I had a time frame of events that was

giving me guidelines as to when things should happen, yes.

Mr. Norm Miller: Okay, well, there was a specific protocol, which I have a copy of in front of me—the clerk is saying that you have a copy of it, too—that goes through things we were told: that you can't take laptops in to the lock-up and that you can't take cellphones in. Probably one of the key ones is “Shortly before 4 p.m. MPPs will proceed to the Legislature (escorted by a member of the minister's office and OPP officers) to be present when the minister tables the budget.” What was the meaning, to you, of “shortly before” 4 o'clock “p.m.”?

Mr. Nicolaas Cliteur: Sir, the timetable that I was following—I was at the Liberal lock-up probably closer to 20 to 4 when the Premier, the Minister of Finance, the Liberal caucus and my security team left to start heading over to the Legislature to continue their work there. I waited for the vast majority of the Liberal members to make sure that they got out of the room successfully and were under escort to head over.

As soon as I left that, I walked directly over to where the PCs and NDPs were waiting. I arrived there probably close to quarter to 4 when, almost right away, members started coming out of the rooms. That's where I waited for the next phase to start.

Mr. Norm Miller: So the Liberals were let go first, roughly around 3:40, to make their way over to the Legislature. You then went to in between the NDP and PC caucus rooms. From the testimony we've had, there seems to be agreement that it was some time between 3:55 and 4 o'clock that the PCs and NDPs were released. From the testimony we've heard, members asked to leave and were told they couldn't leave and that you were awaiting instructions. Is that correct?

Mr. Nicolaas Cliteur: I was waiting for instructions and the escort to start to bring the other members over to the Legislature.

Mr. Norm Miller: Who were you waiting for instructions from?

Mr. Nicolaas Cliteur: More importantly, sir, I was waiting for the escort. There were two things that I said twice to members who were outside there. I said, “For security reasons, I have to wait for the Premier and the Minister of Finance to clear the walkway. Number 2, once the escort”—

Mr. Norm Miller: Excuse me, to clear the walkway in front of the rooms?

1410

Mr. Nicolaas Cliteur: No, the walkway that goes from the Macdonald Block into the Whitney Block.

Mr. Norm Miller: Can I ask why you have to wait for—every day of the week we are mingling amongst each other all the time, so I don't quite understand the security concern with opposition, third party and government members walking together over to the budget.

Mr. Nicolaas Cliteur: Sir, I'm not going to speculate. All I know is that we set up a security process so that I had a team of OPP officers bringing the Liberal caucus over and I had a team of officers to bring the PCs and

NDPs over. I wanted to make sure there were at least a couple of minutes in between that so that, if you think about it, sir, the Liberal team—my security team—doesn't see suddenly a group of people they're not familiar with coming up behind them. There should be—

Mr. Norm Miller: Unfamiliar with?

Mr. Nicolaas Cliteur: I'm sorry, sir; from a security point of view, that's how I envisioned organizing it.

Mr. Norm Miller: Okay. It reminds me of when I used to coach hockey teams and one hockey team had to leave the ice before the other hockey team was allowed to leave the ice at the end of the game.

So you escorted the Liberal Party over first and then you were waiting for your escort to come back before you would release the PCs and the NDPs.

Mr. Nicolaas Cliteur: I'm not waiting for them to come back, sir. I had two separate teams set up. I'm waiting for an escort from either the minister's office or from Larry Till, who was in charge of the budget lock-up. According to all things, he is the only person authorized to release people from the lock-up.

Mr. Norm Miller: Sorry, can I ask you to repeat that name?

Mr. Nicolaas Cliteur: Larry Till.

Mr. Norm Miller: Larry Till?

Mr. Nicolaas Cliteur: He's in charge—

Mr. Norm Miller: Can you spell his last name for me, please?

Mr. Nicolaas Cliteur: I think it's simply T-i-l-l.

Mr. Norm Miller: Okay, thanks. What's his position?

Mr. Nicolaas Cliteur: He was the person I reported to.

Mr. Norm Miller: Is he an OPP officer?

Mr. Nicolaas Cliteur: No, he is a member of Ministry of Finance communications. Sorry, is it CCAB?

Mr. Norm Miller: We'll find out who he was, but he's a member of the minister's staff?

Mr. Nicolaas Cliteur: He's over—

Mr. Norm Miller: I'm getting shaking of heads from behind you there, but—

Mr. Nicolaas Cliteur: He's a member of the Ministry of Finance.

Mr. Norm Miller: Ministry of Finance, okay.

Mr. Nicolaas Cliteur: He's on the third floor, Frost North, and he's the person I went to several meetings with to set up the necessary security protocol.

Mr. Norm Miller: So the Liberals came across. The second team—you were waiting for them to escort the NDP and PC Party. Did the NDP then go before the PCs, because it seems—

Mr. Nicolaas Cliteur: Because of the time frame, sir, they all went together.

Mr. Norm Miller: Because from testimony we've had, the NDP made it across before the great majority of the PC Party did, so they're either in better shape or they left earlier. When do you think they were released from—

Mr. Nicolaas Cliteur: Sir, I did not notate any time. I know we were getting—my best recollection is some-

where between 10 to 4 and five to 4. That's the best I can tell you.

Mr. Norm Miller: So you were waiting for the okay from Larry Till. Was it via two-way radio that you were communicating with him?

Mr. Nicolaas Cliteur: That day, sir, I had three means of communication. I did the best I could to receive that authorization.

Mr. Norm Miller: We heard from a couple of members that they asked two or three times. They weren't sure about when they could leave, and then you communicated with, I assume, Mr. Till. You communicated by radio, and how else did you communicate?

Mr. Nicolaas Cliteur: No. I have two different radio systems on me as well as a cellular phone. Which one actually finally gave me the green light, sir, the okay to allow the members to leave, I can't recall.

Mr. Norm Miller: So to your first couple of calls you made, was the response, "No, we're not ready yet," or "It's too early"?

Mr. Nicolaas Cliteur: My first response was that the members of the Liberal caucus were still in the walkway, "Stand by."

Mr. Norm Miller: And finally it was just, "Okay, go"?

Mr. Nicolaas Cliteur: "Go."

Mr. Norm Miller: By that point, you had your team to escort the members. I wasn't at the front of the lineup—I've been in many lock-ups; I'm the finance critic for the PC Party. Probably in the past seven or eight years I've in the lock-up. Actually, in past years I have been escorted. It's usually been only myself and the leader and maybe one other person, and we have been escorted by a police officer all the other times. This time, I personally was not escorted by a police officer. I didn't see a police officer from leaving the lock-up to getting across into the Legislature. You think the NDP and the PCs were released at about the same time, and it was close to 4 o'clock.

I'll pass it on to Sylvia for a second to ask some more questions.

Ms. Sylvia Jones: Thank you for appearing today. As you can tell, we're just trying to figure out where the challenges came from. You mentioned that you had three forms of opportunities or ways to communicate with Mr. Till at the Ministry of Finance to get the release of the members. Is that accurate?

Mr. Nicolaas Cliteur: I told you that on that particular day, I had three forms of communication on me. I did the best I could to contact somebody authorized to release the members to attend.

Ms. Sylvia Jones: Was it your understanding that the only individual who could authorize the release of the PC and the NDP members was Mr. Till?

Mr. Nicolaas Cliteur: He is arbitrarily in charge. That can be passed on any number of ways. In this particular case, a member of the minister's staff—I only know him as Dan—appeared at the same time that I got the okay to release the members.

Ms. Sylvia Jones: Appeared in person to the lock-up?

Mr. Nicolaas Cliteur: Yes.

Ms. Sylvia Jones: And at that point you had the sign-off or the ability to release the PCs and NDP.

When you were asked by various members, “When can we leave?” and “Why can’t we leave?”—those things—did you attempt to contact Mr. Till?

Mr. Nicolaas Cliteur: Yes.

Ms. Sylvia Jones: How many times?

Mr. Nicolaas Cliteur: I would say that I was probably trying two or three times, if not four or five times. I don’t recall. All I know is, I was doing everything in my ability to allow the process to continue.

Ms. Sylvia Jones: And did you ever successfully connect with Mr. Till in the multiple times that you attempted to contact him?

Mr. Nicolaas Cliteur: Yes. When I got the green light, it was Mr. Till who finally came on the air and told me, “Escort the members over.” At the same time, a member of the minister’s staff was there to assist in that escort.

Ms. Sylvia Jones: How many other budget lock-ups have you been involved in previously?

Mr. Nicolaas Cliteur: I have been in charge of four of the last five budget lock-ups that I have attended.

Ms. Sylvia Jones: Based on that experience with your four or five previous budget lock-ups, were the instructions similar or consistent?

Mr. Nicolaas Cliteur: They have been consistently the same for the last five years that I’ve been involved.

Ms. Sylvia Jones: Have you ever had, in those four or five times, a situation where the MPPs did not have sufficient time to get to the chamber?

Mr. Nicolaas Cliteur: I can’t answer that because I don’t know what time they have to be there. This is the first time I’ve heard that there’s a specific time. All I know is that I’m given a schedule that will allow the members to continue to do their job, and I follow that schedule to the best of my ability and with the proper authorizations and escorts available.

Ms. Sylvia Jones: So the schedule does not have times, per se, laid out. Is that correct?

Mr. Nicolaas Cliteur: No, there are time frames of when—I know, if anything, according to mine, we were running about five minutes late with the Liberal caucus having left. I thought it was around 3:30 or 3:35, somewhere in that time frame, we were expecting the Liberal caucus, and shortly thereafter should be followed by members of the PC and NDP.

Ms. Sylvia Jones: So the Liberal caucus protocol actually allows the government members to be released from their lock-up prior to the opposition?

Mr. Nicolaas Cliteur: Yes.

Ms. Sylvia Jones: And that’s laid out in the protocol as set out by Larry Till from the Ministry of Finance?

Mr. Nicolaas Cliteur: Again, I’m sorry, just so that I’m clear: You keep calling it a protocol; I keep telling you it’s a calendar of times that are laid out that give me

a rough idea of when things should happen. That schedule gives me a rough idea.

1420

Ms. Sylvia Jones: Probably part of the reason why I’m calling it a protocol is that the various House leaders, the three House leaders from the NDP, the government and the PCs, would have been given a copy that sets out the expectations of what our roles and responsibilities would be in the budget lock-up, and I am assuming that it would coordinate fairly closely with what you were given in terms of your schedule of expectation of timelines and events. But again, just to confirm: There are no times on that, but it did specify that the government—Liberal—members were to be released from their lock-up prior to the opposition members. Is that correct?

Mr. Nicolaas Cliteur: One of my biggest concerns, raised by the OPP, is that there’s always security when we are bringing our members over from one area to another. To try and allow security a chance to do its job properly, there has always been a momentary separation of time of these two groups, yes.

Ms. Sylvia Jones: But someone along the line must have made a decision that government caucus was released before PC and NDP caucus. Is that a decision that was made by Larry Till in finance to ensure that security perimeter?

Mr. Nicolaas Cliteur: You’re going to have to ask Larry Till—

Ms. Sylvia Jones: Excellent question.

Mr. Nicolaas Cliteur: —or other members how the timetable—all I’m saying is that just a day or two before budget lock-up, I receive this timetable of events and it gives me guidelines of when things should happen.

Ms. Sylvia Jones: Thank you. I appreciate it.

The Chair (Mr. Bas Balkissoon): Just one second, committee. Based on Mr. Naqvi’s suggestion that we have a time clock today—I have no instructions in the subcommittee report about timing the questions, so if you want to deal with this member, I would have to time it at about 20 minutes each, or maybe 15—probably 15. Mr. Prue?

Mr. Michael Prue: The timetable that you were given said that the Liberals should be leaving at approximately 1535 hours?

Mr. Nicolaas Cliteur: Sir, I don’t have that information in front of me. I’m going by my best recollection, because all documents afterwards, from my perspective, were purged. All I remember is that somewhere around 3:35 or 3:40, the members actually left to head over to the Legislature. As to what time they were expected to leave, I can’t remember that.

Mr. Michael Prue: You’re not a rookie. You’ve done this four of the last five years.

Mr. Nicolaas Cliteur: Yes, sir.

Mr. Michael Prue: Did you meet with Mr. Till each one of those four out of the last five years, or did you meet with other people?

Mr. Nicolaas Cliteur: We had security meetings weekly.

Mr. Michael Prue: With?

Mr. Nicolaas Cliteur: Larry Till and other members associated with this lock-up.

Mr. Michael Prue: Did the instructions come from Mr. Till? Did the guidelines you were given come from Mr. Till and were they in written form?

Mr. Nicolaas Cliteur: Yes, I did have a written timetable in front of me.

Mr. Michael Prue: Was that provided by Mr. Till?

Mr. Nicolaas Cliteur: I received an email. To tell you the truth, sir, I'm not sure who I got that email from, but it would have been a member of the ministry staff. Whether it would have been Mr. Till or somebody within the minister's or deputy minister's office, I'm sorry, sir, I don't know.

Mr. Michael Prue: All right. So you got some documents. You're not sure from whence they came, but you had those. Then you said they were purged. Did you have to hand them in for shredding or something else at the end?

Mr. Nicolaas Cliteur: No, I did that, sir.

Mr. Michael Prue: You purged them.

Mr. Nicolaas Cliteur: Yes, sir.

Mr. Michael Prue: Can you tell us why you purged those documents?

Mr. Nicolaas Cliteur: I purged the documents that I had.

Mr. Michael Prue: Yes. Can you tell us why you did that?

Mr. Nicolaas Cliteur: Because I'm retiring, sir, and I don't want to leave any documents lying around that I had control over.

Mr. Michael Prue: Do they exist in any other form? Do you know of anyone else who might have those documents?

Mr. Nicolaas Cliteur: No, I don't.

Mr. Michael Prue: So as far as you are aware, you are the only person who had those documents, and you have destroyed them.

Mr. Nicolaas Cliteur: Sir, I received an email with guidelines. I printed them off so I could have them available as I did my duties. Upon completion of those duties, I destroyed that document. If other people have got copies of it, I just don't know.

Mr. Michael Prue: All right. You were awaiting the instructions from Mr. Till. Was this the agreement that you had with him following your meetings in the Frost building?

Mr. Nicolaas Cliteur: Yes. If there were any concerns about releasing people from the room, I was to contact him.

Mr. Michael Prue: And what concerns did you have for releasing the opposition members at 3:45?

Mr. Nicolaas Cliteur: No, I wanted to communicate the question that was being raised by the members as to when they could leave. That was the question being put to me, that was the question I was putting to Mr. Till or trying to put to Mr. Till, and I dealt with it once I got the okay to go ahead.

Mr. Michael Prue: Who instructed you that the members of the Liberal caucus were to be treated in a manner different from members in opposition? That is, who instructed you that the Liberals and all the Liberal caucus could accompany the Premier and the finance minister, but members of the Conservative caucus and the NDP for security reasons could not? This I find a little bizarre, but if you can tell me who instructed you that Liberals were safe to be with the Premier and the finance minister, but Conservatives and New Democrats were not. This I don't understand.

Mr. Nicolaas Cliteur: I don't have an answer to that question, sir.

Mr. Michael Prue: Why were two caucuses treated differently than the other? Why could they not all leave together?

Mr. Nicolaas Cliteur: I had one security team join with a rather large Liberal caucus and I had one security team set up to help out with the other part of the legislative members go over.

Mr. Michael Prue: Why couldn't the two teams accompany the three caucuses?

Mr. Nicolaas Cliteur: I waited for the okay and the escort to allow the members to leave.

Mr. Michael Prue: Was their discussion with Mr. Till of why the two groups could not leave together?

Mr. Nicolaas Cliteur: That question was never asked.

Mr. Michael Prue: You never asked it and he never instructed that they couldn't leave together?

Mr. Nicolaas Cliteur: Sir, I repeat myself: I was waiting for Mr. Till's authorization and an escort to allow the members to leave.

Mr. Michael Prue: You said that you were part of the process, and you had several meetings to set up the security process. This was never discussed? This had to have been discussed if you were treating it as one group would go in advance and the second one would go later. Or did you just think this up on the day?

Mr. Nicolaas Cliteur: No. I told him that I would have two security teams deal with the two different groups going over. As to the timing of when they were released, it's not my job to make that decision. Mine was to follow the instructions. I set up the two security teams.

Mr. Michael Prue: When the Liberals were allowed to be released, did they have to go with a member of the Ministry of Finance? Did they have somebody from the Ministry of Finance accompany them as well as OPP officers?

Mr. Nicolaas Cliteur: Absolutely.

Mr. Michael Prue: And were arrangements made to have the same or a different person from the Ministry of Finance accompany?

Mr. Nicolaas Cliteur: I was expecting a different person from the Ministry of Finance.

Mr. Michael Prue: Was it a different person or was this Dan the same person who accompanied both and came back?

Mr. Nicolaas Cliteur: No. Dan was not part of the team that went with the Liberal caucus.

Mr. Michael Prue: Were any questions asked of Dan why he showed up 15 minutes or 20 minutes after the Liberals left?

Mr. Nicolaas Cliteur: Not by me, sir.

Mr. Michael Prue: So would Dan have that information? If we were to call Dan, whoever Dan is, would he have the information on what instructions he had to show up 20 or 25 minutes after his counterpart showed up to escort the Liberals?

Mr. Nicolaas Cliteur: It's not a question I can answer, sir.

Mr. Michael Prue: All right. You said that you had two radio systems and a cellphone, but you're not sure which method was ultimately successful in finding Mr. Till. Cellphones can be accessed as to exact times and dates and where the calls were made. Do you still have your cellphone bills, in case it was the cellphone, and what time and date, so we can verify the exact time that you finally connected with Mr. Till or the exact time that he called you on that cellphone?

1430

Mr. Nicolaas Cliteur: The telephone is supplied by the budget secretariat for the times that I'm in charge of the lock-up. The phone has been returned to them. Any and all phone calls and bills go through their office.

Mr. Michael Prue: So the phone was returned to them, it was their phone, so they should have, if it was in fact the phone that you finally got him on, the exact time at which the call came in from Mr. Till saying, "Release them."

Mr. Nicolaas Cliteur: Yes, sir, if a cell was used.

Mr. Michael Prue: All right. Then I think we should get that.

You went on to say that you were told that the Liberals were still in the walkway and that the Conservatives and NDP had to stand by. The walkway is a good distance from the lock-up rooms. It's about halfway or perhaps a little more than halfway to this Legislative Building. Why did you consider that that wasn't sufficient distance? I'm not even sure they had to be kept apart, but why did you think it wasn't enough distance that you held them further until the Liberals had cleared the walkway?

Mr. Nicolaas Cliteur: First of all, if I remember right, from where the lock-up is for the members of the PC and NDP, we're talking halfway down a hallway to where the walkway starts and then into the Whitney Block. All I wanted to do was wait that short distance to clear the members from the walkway before I sent another security team across with the members. That's all I asked.

Mr. Michael Prue: But why? I don't understand. They were at least a five-minute walk apart at that point. It took at least five minutes to walk from the lock-up room that the Liberals were in to the walkway. Why was that not a sufficient distance between the two groups? I don't understand why there had to be a distance at all, but why was that not a sufficient distance? Why were the NDP and Conservative members made to wait longer?

Mr. Nicolaas Cliteur: I'm going back to one point: I was waiting for the authorization to release the members. I was in charge of security. Once I received that authorization for them to leave, it was done expeditiously.

Mr. Michael Prue: You used the word that it was a protocol that the government would leave first—or somebody used the word "protocol." I think the Conservatives used that, that the government would leave first. I think this is quite key to me. Who made the determination that the government would leave first? Did you make that, or did Mr. Till make that?

Mr. Nicolaas Cliteur: I did not make that.

Mr. Michael Prue: You did not make that? So you had instructions that the government would leave first and the opposition would leave later.

Mr. Nicolaas Cliteur: That was what was on the timetable.

Mr. Michael Prue: All right. Were you given any explanation whatsoever as to why this was to be the case?

Mr. Nicolaas Cliteur: No.

Mr. Michael Prue: Is it reasonable that a government member who was so inclined would be able to leak information every bit as easily as an opposition member who was so inclined? They were both in a lock-up; they both saw the document. Is there any difference between the two as to how a leak might occur? Because I think that's why they were in the lock-up and that's why there was security: so that no leaks occurred. Is there any difference between a government member, in your mind, and an opposition member in terms of leakage?

Mr. Nicolaas Cliteur: You're asking me to speculate, sir, on what people would do.

Mr. Michael Prue: No, but you treated them differently. You treated one group to be allowed to go first in plenty of time and another group not to, and the second group couldn't even travel with them. So I'm trying to figure out: What was the rationale for this? You said it was security. Was it the security of the leak? The security of the personage of the Premier? What was the security?

Mr. Nicolaas Cliteur: Sir, I was asked to provide two security teams to provide an escort over to the Legislature. You're asking me about the rationale. I don't have an answer for you, sir.

Mr. Michael Prue: So you didn't question what security you were providing. Was it personal security? Safety-of-documentation security? You don't know?

Mr. Nicolaas Cliteur: I was asked to provide two security teams.

Mr. Michael Prue: You also said that security would provide a momentary separation. I wrote down "momentary separation."

Mr. Nicolaas Cliteur: Yes. From a security point of view, sir, I saw the viability in allowing a bit of a gap from one group my team was bringing up to a second team coming up within a few minutes after. I could see the viability from a security point of view of that following through.

Mr. Michael Prue: I've only got one more question.

The Chair (Mr. Bas Balkissoon): Okay, because we would need a couple of minutes to decide the next step.

Mr. Michael Prue: Okay. Mr. Till provided the timetable. That's what I wrote down. Mr. Till provided you with the timetable and, when you looked at that timetable, was it any different than timetables in past years when you provided security?

Mr. Nicolaas Cliteur: No, sir.

Mr. Michael Prue: Okay, thank you very much.

The Chair (Mr. Bas Balkissoon): The government side?

Mr. Yasir Naqvi: No questions. Thank you very much.

The Chair (Mr. Bas Balkissoon): Mr. Miller has a question.

Mr. Norm Miller: I just want to read something and get you to verify it for me. I'll read this:

"I have been able to confirm that the OPP officer positioned at the door of the room being used for the PC lock-up was instructed at approximately 3:50 p.m. to let the members of the PC caucus leave for the chamber. Unfortunately, the OPP officer did not acknowledge the authority of the staff person who gave the instruction and a more senior staff person had to be directed to the room to ask the OPP officer to let the members leave for the chamber. The minutes lost finding a more senior staff person account for the delay in giving all members time to get to the chamber. I would like to make it clear that at no time did the government prevent or obstruct any member from arriving in the chamber for the presentation of the budget."

So my question is: Is that correct? Is that accurate? I know I just read it once; I'd be happy to read it again or read the key parts again.

Mr. Nicolaas Cliteur: Sir, my testimony right from the start was that my best recollection is, somewhere around 10 to four to five to four I was given the authorization to release the members from the lock-up. Immediately upon receiving those instructions, the escort had arrived literally at exactly the same time and all members left under police escort.

Mr. Norm Miller: So the key, though, this is from—I'll tell you who it's from. It's from the government House leader, defending the point of privilege in the Legislature. But the key thing is, she says that the officer did not acknowledge the authority of the staff person who gave the instruction to release us. Is that correct?

Mr. Nicolaas Cliteur: I don't know which OPP officer they were talking to, sir.

Mr. Norm Miller: Well, you were the only OPP officer at the door, weren't you?

Mr. Nicolaas Cliteur: No, sir.

Mr. Norm Miller: Or you were the only one communicating.

Mr. Nicolaas Cliteur: I was the officer in charge of the security detail for the day.

Mr. Norm Miller: You told me previously that you were between the NDP and the PCs and you were the one communicating to the members.

Mr. Nicolaas Cliteur: Correct.

Mr. Norm Miller: Correct. So I assume this means that this is directed towards you. I'll read it again. It says, "Unfortunately, the OPP officer did not acknowledge the authority of the staff person who gave the instruction and a more senior staff person had to be directed to the room." Is that correct?

Mr. Nicolaas Cliteur: Sir, I waited for the communication—

Mr. Norm Miller: But is this correct? It's fairly straightforward.

Mr. Nicolaas Cliteur: I don't recall anybody coming to me and telling me that they are released.

Mr. Norm Miller: So nobody came, and then you didn't—so you're saying it's not correct, because you didn't have a person come and you didn't challenge their authority and then another person came.

Mr. Nicolaas Cliteur: No, sir.

Mr. Norm Miller: I think that's what you're saying, and that's based on what you said previously. I would agree that's what you're saying. So, okay. Thank you for that.

Ms. Sylvia Jones: One quick question, and thank you for trying to clarify this whole short mess. You were instructed to wait to release the opposition members. Were you also instructed or did you get instruction from Larry Till or Dan to release the Liberal members? How were you allowed to release the Liberal members from their lock-up?

Mr. Nicolaas Cliteur: In exactly the same manner. Each section of persons who were required to leave the lock-up prior to the minister releasing the document had to follow—I had to wait for that authorization to come. So whether it be the—sorry.

1440

Ms. Sylvia Jones: Government members or the opposition?

Mr. Nicolaas Cliteur: Before any of the members of the Legislature went over, there was also a group of people representing key people. You have a specific—

Ms. Sylvia Jones: Stakeholders, lobbyists.

Mr. Nicolaas Cliteur: Stakeholders; thank you. Stakeholders were under the same—I was there as all the stakeholders who had permission to leave were given the authorization, escorted and taken over. I went over to the Liberals: All the persons who were authorized were given the release and escorted over. I went over to the PC and NDP rooms: They were given the authorization, released and escorted. The same process was followed all the way through.

Ms. Sylvia Jones: Perfect. So what was the order of releasing individuals from the lock-up? Was it stakeholders, Liberals, opposition members, or Liberals, stakeholders, opposition members?

Mr. Nicolaas Cliteur: No, stakeholders went much earlier, then the Liberals, then the PCs and NDPs.

Ms. Sylvia Jones: And in each situation, each of those three individual lock-ups, you waited for the approval, the release, from either Larry Till or Dan?

Mr. Nicolaas Cliteur: No, from Larry Till or a member of the minister's staff in charge of the escort.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Hardeman?

Mr. Ernie Hardeman: Just quickly, I want to go back a little bit to what it is the security was for. Was it to protect the people or to protect the information?

Mr. Nicolaas Cliteur: Both, sir.

Mr. Ernie Hardeman: It would seem to me that if it's to protect the information, it would make absolutely no difference who was going where when, as long as they weren't going in such a way that they could leak the information. It takes me back to the comments of my colleague here. What's the difference between what party you are as to whether you are likely to leak information? Why would a security approach to protecting that information be dictated by the size of the party or the position of the party? Why would there be a different approach to protecting that security in my hands as opposed to protecting it in the hands of Mr. Delaney? Maybe we should say Mr. Dickson, because Mr. Delaney would never spill the beans, would he?

I think this is rather serious. Why would it be different?

Mr. Nicolaas Cliteur: Sir, you asked me a question: Are we there to protect the people and/or the document? I said we're there to protect both. You specifically now have asked me questions concerning the document only. That's not fair, sir, because, in fact, the purposes that I see of the security teams going there are twofold: to protect the people going over, out of the lock-up area, into a different area altogether and the integrity of the document that they've had the ability to see. That's what I tried to provide as best I could on that day, under the guidance that I have followed all the way through this.

Mr. Ernie Hardeman: I accept your criticism that it's not fair to split the two, so I'll bring the other one. I guess my question really is about the security of the person—protecting the Premier from me, and me from my friend from the NDP. If you are in charge of security and you are in charge of my security every day for whatever reason around the precinct, why, when this is for a budget lock-up, do we have someone in the Ministry of Finance deciding how you should provide that security? Wouldn't it still be based on you putting forward the proposal on how best to protect everyone under these circumstances, and then you go about doing your job, as opposed to having the Ministry of Finance decide how that should be done and what time I should be allowed to leave? Wouldn't the security of the person be totally in your hands?

Mr. Nicolaas Cliteur: Is it totally in my hands, sir? No.

Mr. Ernie Hardeman: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Prue, do you have further questions?

Mr. Michael Prue: Yes, I have some additional questions.

The Chair (Mr. Bas Balkissoon): We've got about five minutes, I think.

Mr. Michael Prue: Yes, about five minutes, and maybe that's all it's going to take. Did you receive instructions on what to do if and when a member wanted to leave without the permission of Mr. Till?

Mr. Nicolaas Cliteur: Did I leave—I'm sorry.

Mr. Michael Prue: No, no, did you get any instructions on what you were to do if one of the members insisted, "I'm leaving. I want to be over there to do my job"? Did you have instructions on what to do with that member if they decided to leave before you gave the okay?

Mr. Nicolaas Cliteur: Was I given instructions? No, sir.

Mr. Michael Prue: What would have been your role: just to let him go?

Mr. Nicolaas Cliteur: You're asking me to speculate, sir, and that is not something that I am going to do at this hearing.

Mr. Michael Prue: All right. So if a member wanted to leave, could they leave?

Mr. Nicolaas Cliteur: Sir, you're asking me to speculate, because I've never had that happen in the five years that I've been in charge.

Mr. Michael Prue: I witnessed it. I witnessed it myself, when a member said, "I'm leaving and you're going to have to arrest me if you try to stop me." I witnessed that two budgets ago. The officer let him go, and I went with him. I want to know: Has there been any instruction on what to do if a member decides to leave? Do you just let him or her go?

Mr. Nicolaas Cliteur: Sir, again, I'm going to say that in the five years that I've been in charge, nobody has ever challenged the ability to leave prior to release being given by Mr. Till or the person in charge of the lock-up.

Mr. Michael Prue: You've said that this has never happened, not in the five years—nobody has ever left in advance.

Mr. Nicolaas Cliteur: Not while I've been in charge, sir.

Mr. Michael Prue: All right. I think those are my questions. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you—

Mr. Norm Miller: I just wanted to clarify a point of what Mr. Prue was talking about, because he talked to me about it previously. He said that Howard Hampton, the leader of the NDP at the time—I assume that was two years ago—wanted to leave, and I assume that's who Mr. Prue was talking about in saying that he said that he was going to leave, was asked not to and then actually just did leave. Do you have any recollection of that?

Mr. Nicolaas Cliteur: I recollect my time with Mr. Hampton. Mr. Hampton left the room under escort, and I believe where he was going, sir, was to do his time with the media. That is the only time—my career as a police officer started in Fort Frances. Mr. Hampton and I knew each other very well during my time up there in Fort Frances. Mr. Hampton challenged me at one point concerning going to the media, and I actually had a ministry staffer there and said, "We'll go now," and he was under

escort. That is the only time Mr. Hampton has ever challenged leaving that lock-up, to the best of my recollection, while I have been in charge.

Mr. Norm Miller: Thank you. I understand that that very well may be the incident that Mr. Prue was speaking of from a couple of years ago. I just thank you for helping to clarify things. I appreciate it. We weren't trying to interrogate you, but we do appreciate you providing information today for us to help us understand the events of the budget lock-up.

Mr. Nicolaas Cliteur: I'm glad I could help, sir.

The Chair (Mr. Bas Balkissoon): Before I let Mr. Cliteur go, I just want to make sure all parties are happy.

I understand Mr. Knox is really just here accompanying him, and you really don't have much—

Mr. Daryl Knox: That's correct, sir. I was the overall officer in charge of security for Queen's Park that day.

The Chair (Mr. Bas Balkissoon): Okay. Does anybody have any questions?

Mr. Michael Prue: I have questions.

The Chair (Mr. Bas Balkissoon): You do? Okay. We will have to ask—

Mr. Norm Miller: Just one question, and that is: There's Dan and there's another reference to a member of the minister's staff; do you know who they are, any fuller names—a last name for Dan or who this member of the minister's staff is?

Mr. Nicolaas Cliteur: I'm sorry, sir. It's one of my downfalls, trying to remember names. I'm excellent with facts and details, but terrible with names.

Mr. Norm Miller: No problem. Thanks.

The Chair (Mr. Bas Balkissoon): Mr. Knox, would you be able to return at the next scheduled meeting?

Mr. Daryl Knox: On June 2?

The Chair (Mr. Bas Balkissoon): It will probably be June 2, but the clerk will let you know.

Mr. Daryl Knox: That's fine; yes.

The Chair (Mr. Bas Balkissoon): Okay. I just want to thank both of you for taking the time to be here with us today.

Committee, we just have a couple of minutes left, so rather than call the next witness, I'm just wondering if we could discuss what the next steps are. After the next witness, would you like to have a subcommittee meeting to lay out the next set of steps?

Mr. Michael Prue: We can, or I would want to put on the record that at this point, at this juncture, having heard the testimony, I would like to hear from Mr. Till and Dan, whoever Dan is, and I would like the ministry to provide the cellphone records for the cellphone, to show exactly what time the call came in to the officer saying that the members could be released.

1450

Ms. Sylvia Jones: If I could add to that: not only the cellphone records for releasing the opposition members but for releasing the Liberal members and the stakeholders, because he did make reference to "three separates."

Mr. Norm Miller: And the member of the minister's staff in charge of budget lock-up who was referred to, other than Mr. Till.

The Chair (Mr. Bas Balkissoon): We've got Larry Till and Dan.

Mr. Norm Miller: There was another reference. What was the reference to the minister's staff person who—

Ms. Sylvia Jones: The officer said "a member of the minister's staff related to budget lock-up," so there must have been a team, under Larry Till, with Dan and someone else.

The Chair (Mr. Bas Balkissoon): Can we pursue that after we hear from Mr. Shortill?

Ms. Sylvia Jones: The only other thing that I would ask: The officer made reference to an email that he had received as a result of his meeting with Mr. Till, and he subsequently destroyed it because he left, which is fair enough. Could we get a copy of that email from the sender—presumably Mr. Till, but I would not want to make an assumption at this point.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi.

Mr. Yasir Naqvi: I was just hoping, before we start doing our shopping list—and that's appropriate—that if we still had some time, we could hear from Mr. Shortill.

The Chair (Mr. Bas Balkissoon): We only have five minutes and I can't go a full round, so I didn't want to start.

Mr. Yasir Naqvi: Okay.

The Chair (Mr. Bas Balkissoon): That's the only reason. I don't want to start and then it's left in the middle of a witness's—

Mr. Yasir Naqvi: So he'll be called back on June 2?

The Chair (Mr. Bas Balkissoon): We would have to request him to come back also. The committee meets on June 2. We will send a request out—

Mr. Michael Prue: I wonder, since it seems to me unlikely—given that I have questions of Mr. Knox, we have questions of Mr. Shortill and we may have questions of Mr. Till and Dan, and there is some documentation—that we could possibly expect to finish on June 2, since we are charged to do this in an expeditious manner, would it not be appropriate, before we meet again, to seek instruction from the House as to when we would continue? If we are to continue on a date when the House is not sitting, which we cease on June 3, we are going to have to have the permission of the House to meet in the summer. We don't have to necessarily set the dates, but I think we do have to get that permission in the event we don't finish on the next date, which is highly likely.

The Chair (Mr. Bas Balkissoon): I'm in the hands of committee. I would have to get your agreement on which direction you want to go with, and then I'll just take the request. I need all parties to agree.

Mr. Michael Prue: I'm putting that forward, because that's the instruction from the Speaker, that this be dealt with as expeditiously as possible, and the order of the House is that this committee deal with nothing else until we finish this. Therefore, I am desirous, if we don't finish on the second, that we do so with expediency.

Mr. Yasir Naqvi: I would argue that while I agree with Mr. Prue that this matter has to be dealt with as expeditiously as possible, because that's what the Speaker has ruled, we should try to deal with this as expeditiously as possible, not try to drag it out over the summer, and try to get this done.

Mr. Norm Miller: We have two hours left.

The Chair (Mr. Bas Balkissoon): We only have two hours left, because we're scheduled, by House instructions, every Wednesday between 1 and 3, unless you're asking to start at noon on June 2.

Mr. Yasir Naqvi: Which is fine with me, if you want to start at noon on June 2.

Mr. Michael Prue: That's a start, but I think we also need to seek the authority of the House, if we don't finish by 3 o'clock on June 2, that we have authorization to meet again at some point, preferably in the month of June, to finalize this. We can set perhaps one day aside to finalize it.

Mr. Yasir Naqvi: I was going to suggest that we try to get as much done on June 2, starting at noon, and if we fail to do so, then we can go to the House for that approval.

The Chair (Mr. Bas Balkissoon): I'm being told by the clerk, because that week is a short week, that if we need to make a request, we need to make it as soon as possible.

The Clerk of the Committee (Ms. Tonia Grannum): Before the House rises, because they have to move the motion in the House.

Mr. Yasir Naqvi: June 3 is the last day of the House.

The Clerk of the Committee (Ms. Tonia Grannum): They have to move the motion in the House, so—

The Chair (Mr. Bas Balkissoon): June 4 is—

Mr. Yasir Naqvi: So we still have time.

The Chair (Mr. Bas Balkissoon): June 2 we're meeting; June 3 is the last day.

Mr. Yasir Naqvi: So we still have until the third to get the approval of the House.

Ms. Sylvia Jones: I'm sorry. I know that you did make reference to a noon start, and unfortunately, I cannot do that; I've already got a commitment.

The Chair (Mr. Bas Balkissoon): We'll leave it at 1 to 3. The clerk will notify Mr. Shortill and Mr. Knox, and we will attempt to find the other individuals and the email and the—

Ms. Sylvia Jones: Could I make an alternative suggestion, in that we ask the House leaders to put forward the motion so that we can sit for a full day in June when the House has risen—

The Chair (Mr. Bas Balkissoon): I'm in your hands as a committee.

Ms. Sylvia Jones: —and then phrase it in such a way that if we don't need it, then we won't? At least it's there and we won't get caught if the House rises early.

The Chair (Mr. Bas Balkissoon): Do I have agreement on all sides?

Mr. Yasir Naqvi: So we'll ask House leaders to—

The Chair (Mr. Bas Balkissoon): To put forward the request that if we don't finish on June 2—

Mr. Michael Prue: But I think the committee has to make the request. Might I suggest that—

The Chair (Mr. Bas Balkissoon): I think that's what she's saying.

Mr. Michael Prue: If I might suggest that the clerk prepare such a motion for our use, if we need to do so, on the second, so that we can do that—

The Chair (Mr. Bas Balkissoon): I understand, Mr. Prue. I just want to make sure I have all sides' agreement.

Mr. Yasir Naqvi: No. I still feel that we should try to finish this on the second; if not, then we go to the House.

The Chair (Mr. Bas Balkissoon): I don't have all sides' agreement.

Mr. Yasir Naqvi: We still have one day of the House left to—

Mr. Ernie Hardeman: If you don't ask for it now, you will have to wait until the fall.

Mr. Yasir Naqvi: We still have one day.

Mr. Ernie Hardeman: Because you can't sit during the summer recess.

The Chair (Mr. Bas Balkissoon): No. We will have the third—

Mr. Yasir Naqvi: We have the second and the third, because routine proceedings start at 3 o'clock on the second.

Ms. Sylvia Jones: It is a risk, because there are examples—and I've only been here for two and a half years—where the House rises earlier than the Thursday.

The Chair (Mr. Bas Balkissoon): Okay. We're adjourned, and the clerk will attempt to get all the information you've requested.

The committee adjourned at 1457.

CONTENTS

Wednesday 19 May 2010

Subcommittee report	M-109
Members' privileges.....	M-109
Mr. Ted Arnott	M-109
Mr. John Yakabuski	M-112
Mr. Peter Tabuns.....	M-115
Mr. Nicholaas Cliteur.....	M-117

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Substitutions / Membres remplaçants

Mr. Jeff Leal (Peterborough L)

Also taking part / Autres participants et participantes

Mr. Robert Bailey (Sarnia–Lambton PC)

Mr. Ernie Hardeman (Oxford PC)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Peter Sibenik, procedural clerk,
Journals and Procedural Research Branch

M-7



JUN 1 2010

M-7

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 2 June 2010

Journal des débats (Hansard)

Mercredi 2 juin 2010

**Standing Committee on
the Legislative Assembly**

Members' privileges

**Comité permanent de
l'Assemblée législative**

Privilèges des députés

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

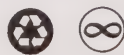
Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.



LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 2 June 2010

Mercredi 2 juin 2010

The committee met at 1305 in committee room 2.

MEMBERS' PRIVILEGES

MR. DARYL KNOX

The Chair (Mr. Bas Balkissoon): I call to order the meeting of the Standing Committee on the Legislative Assembly, a continuation of our meeting from last week.

If I could ask Mr. Knox to come forward again. You've already been sworn in, so we'll just continue into the committee's questioning.

I turn to the Conservative Party and Mr. Miller.

Mr. Norm Miller: It was Mr. Prue of the NDP, I think, who had indicated that he was interested in questioning Mr. Knox.

The Chair (Mr. Bas Balkissoon): While you're questioning him, he'll show up.

Mr. Norm Miller: I assume he's going to show up. I'll give the floor to him, because I think he was the person more interested in questioning Inspector Knox than I was. I will start, though.

Inspector Knox, thank you for coming before the committee today. What was your role or responsibility to do with the budget lock-up?

Mr. Daryl Knox: I'm the detachment commander at Queen's Park, so I was overseeing the detachment function on that particular day. That would have been the officers who were involved in the security detail. Sergeant Cliteur, of course, was the overall officer in charge of the actual security team for the budget lock-up, but I was also responsible for all those officers plus the operations of the day-to-day detachment functioning.

Mr. Norm Miller: There was a protocol, a memorandum, that was sent around to all the members who wished to participate in the budget lock-up that outlined things like "You can't take your BlackBerry in" and "You'll be released shortly before 4 o'clock." You were familiar with that—

Mr. Daryl Knox: Yes, that's correct.

Mr. Norm Miller: It looks like Mr. Prue is almost here. Oh, go ahead, Sylvia.

Ms. Sylvia Jones: Sorry. In reference to the protocol that was set up, were you involved in that meeting where they discussed—

Mr. Daryl Knox: Some of the meetings I was involved in, but primarily it was Sergeant Cliteur who was involved in that. I don't know if you can call it a proto-

col. It was a schedule of events and times that were going to take place through that day. It was more or less for us to schedule our security teams so we could have them in place at certain times and ready to go when we were given instruction by the folks with the Ministry of Finance.

Ms. Sylvia Jones: The schedule of events clearly set out who was to be contacted before the government members, before the opposition, before the—

Mr. Daryl Knox: It gave approximate times as to when events were to take place and who was to meet our security teams at the various rooms to escort the various stakeholders, the members of Parliament, back over to the Legislature.

Ms. Sylvia Jones: As a point of clarification, this was not just on the schedule of events. You actually had been directed to call someone and get the approval to release the members?

Mr. Daryl Knox: The call would come from the folks from the Ministry of Finance, the people who worked in that event that day. We were to wait for an escort before people were allowed out of the rooms.

Ms. Sylvia Jones: Were you to wait for the phone call, or did you initiate the phone call to the Ministry of Finance—

Mr. Daryl Knox: I didn't myself, no.

Ms. Sylvia Jones: But in the schedule of events, was that laid out specifically, saying you wait for a phone call from, or you proactively call at set time?

Mr. Daryl Knox: We would wait for a call from the overall person in charge of that, who was Larry Till on that day.

Ms. Sylvia Jones: So your security officers had been told to wait for a phone call from the Ministry of Finance—

Mr. Daryl Knox: Or a radio call, or whatever, yes. There would be communication to them, either by way of radio or phone call. It was radio that day.

Ms. Sylvia Jones: Okay.

Mr. Norm Miller: Last week I asked Sergeant Cliteur about the written statement that the House leader made, where she said:

"I have been able to confirm that the OPP officer positioned at the door of the room being used for the PC lock-up was instructed at approximately 3:50 p.m. to let the members of the PC caucus leave for the chamber. Unfortunately, the OPP officer did not acknowledge the authority of the staff person who gave the instruction and

a more senior staff person had to be directed to the room to ask the OPP officer to let the members leave for the chamber. The minutes lost finding a more senior staff person account for the delay in giving all members time to get to the chamber. I would like to make it clear that at no time did the government prevent or obstruct any member from arriving in the chamber for the presentation of the budget."

1310

Sergeant Cliteur basically said that is incorrect. Do you have an opinion on this?

Mr. Daryl Knox: Sergeant Cliteur was dealing with the member present there. I was not present when that was taking place, so only he could speak to what actually took place.

Mr. Norm Miller: In the protocol—I'm calling it a protocol—it was clear that you were going to release the government members first, before you released the opposition members?

Mr. Daryl Knox: It laid out the approximate times as to when certain parties would be released, yes. It was more for us, so we knew what security teams to have in place at what location.

Mr. Norm Miller: Has that been the case in past years, that the government members get released prior to the opposition and third party members?

Mr. Daryl Knox: I'm advised it has been; however, this was my first budget release. Sergeant Cliteur had been at about four or five.

Ms. Sylvia Jones: For the record, this is of course the first time that the opposition members were not able to have sufficient time to get from the lock-up into the chamber. You don't have to respond to that.

Mr. Norm Miller: In the protocol, it was stated that members were to be released shortly before 4 p.m. What did you take that to mean?

Mr. Daryl Knox: Once we received a notification from the staff with the Ministry of Finance, then we would start to release at a scheduled time. My indication was that these times were approximate. They're not etched in stone.

Mr. Norm Miller: So, really, the problem was that you didn't receive the say-so to let the opposition members leave?

Mr. Daryl Knox: Our instruction was to wait until we received instruction, and once we received the instruction, to the best of my knowledge, that's when we started to release the various folks in the various rooms to come over to the Legislature.

Mr. Norm Miller: I think I'll pass it on to Mr. Prue, because I know he had some questions.

Mr. Michael Prue: You said you participated in a number of meetings with Mr. Till. Was anybody else there?

Mr. Daryl Knox: Several members of the Ministry of Finance staff. I can't recall all the names. There were quite a few people who were involved in a series of meetings, everybody from facilities people with the buildings

and various other—CBRE, ORC, these other folks who were involved.

Mr. Michael Prue: Is it safe to say there were dozens of people involved?

Mr. Daryl Knox: Oh, yes, various meetings.

Mr. Michael Prue: So dozens of people sitting around a room when these instructions were given?

Mr. Daryl Knox: It was over the course of several meetings, as they were planning. It was being developed, basically—

Mr. Michael Prue: So dozens of people were privy to what was going to happen?

Mr. Daryl Knox: I believe so, yes.

Mr. Michael Prue: And part of what they knew is that the members of the government would be released first.

Mr. Daryl Knox: That's what the schedule showed, yes.

Mr. Michael Prue: During the course of these meetings, did anyone question why the Minister of Finance and the government members would be released first and the opposition released later?

Mr. Daryl Knox: Not to my knowledge, no.

Mr. Michael Prue: There was nobody present, though, from opposition parties to voice concern about this impropriety?

Mr. Daryl Knox: Not that I would recognize, as to what their party affiliation was.

Mr. Michael Prue: Of the dozens of people, what rationale was given to release government members first and opposition members later?

Mr. Daryl Knox: It was never communicated, so I can't answer that.

Mr. Michael Prue: What rationale was given to not have everybody go at the same time?

Mr. Daryl Knox: Basically for security purposes, so we could control who was leaving at what time, so we could have teams in place.

Mr. Michael Prue: Again, the question was asked of Sergeant Cliteur on the last occasion: What was the security? Was it the security of the person of the finance minister and/or the Premier, or was it the security of the document?

Mr. Daryl Knox: Both.

Mr. Michael Prue: Let's go with the security of the person of the finance minister and/or the Premier. Why and how would they not be secure in the presence of opposition members?

Mr. Daryl Knox: It's not the opposition members, to my knowledge. There were other people who have access to that floor on that day who could get in without us knowing. So this way—the fewer people, then we're able to provide better security when we do that.

Mr. Michael Prue: Again, I go back: Did anyone raise the issue of the opposition members? I'm not talking about the staff and other people who might have been in the room with them. Was there any rationale given as to why the opposition members could not walk across the street with the Premier, the finance minister

and the assorted Liberals who were allowed to go with them?

Mr. Daryl Knox: No, sir.

Mr. Michael Prue: Then why was the decision made to separate them out?

Mr. Daryl Knox: That's something that was given to us in terms of the schedule of when people were going to leave, sir. I didn't set that policy or that—

Mr. Michael Prue: So it was nothing to do with the police and it was everything to do with the dozens or so members from the finance committee and the Liberal Party who were there.

Mr. Daryl Knox: It was communicated to us, as to the times, from the Ministry of Finance staff, sir.

Mr. Michael Prue: What role did Mr. Till play in all of this?

Mr. Daryl Knox: Mr. Till was basically the officer in charge—the in-charge person—of the budget lock-up. He is the assistant director for corporate communications for the Minister of Finance.

Mr. Michael Prue: Was his the final authority and word in these meetings?

Mr. Daryl Knox: He was at the meetings. Basically it was discussing, over several weeks, security procedures and the release of the document, sir. But I guess at the end of the day, yes, he was the person in charge of the release date.

Mr. Michael Prue: At the end of these many meetings, was a list drawn up and given to OPP officers on what they should do that day?

Mr. Daryl Knox: In terms of the scheduled events, yes.

Mr. Michael Prue: Now, the officer on the last occasion, Mr. Cliteur, said that he destroyed his. Do you still have yours?

Mr. Daryl Knox: I do, electronically, yes, sir.

Mr. Michael Prue: Do you have a copy that you could make available to us on what was supposed to be done?

Mr. Daryl Knox: I could, yes.

Mr. Michael Prue: Then I would request that that be laid before the committee as well. Was that copy signed by anyone?

Mr. Daryl Knox: Not to my recollection, sir.

Mr. Michael Prue: So it was just on a plain piece of paper?

Mr. Daryl Knox: Yes, sir.

Mr. Michael Prue: On finance ministry stationery, or just white?

Mr. Daryl Knox: I don't know.

Mr. Michael Prue: Oh, who knows? Okay, look again. All right. We'll see it in any event.

Much has been made about the order that opposition members were to be released shortly before 4 o'clock. Was that ever defined in any way?

Mr. Daryl Knox: It was defined on the schedule of time that that would be the approximate time. Again, it was timed just for us to have security staff in place. We

didn't give the order for when people were going to be released.

Mr. Michael Prue: What was the scheduled approximate time for government members to be allowed to leave?

Mr. Daryl Knox: I'd have to look at the times again, sir. I can't say off the top of my head the exact times.

Mr. Michael Prue: Was it 10 or 15, 20 minutes before?

Mr. Daryl Knox: Again, sir—

Mr. Michael Prue: You don't remember?

Mr. Daryl Knox: I don't remember, sir.

Mr. Michael Prue: Okay, that's fair enough.

Mr. Daryl Knox: Somewhere before 4 o'clock, or after 4. I'd have to look at it.

Mr. Michael Prue: Do you remember the length of time between the two groups being allowed to leave?

Mr. Daryl Knox: No, sir, I don't.

Mr. Michael Prue: You said it was for security reasons. I think I've asked enough here about the individuals. What about the document? What was the rationale given in this meeting attended by dozens of people that the opposition members would be treated differently in terms of time, in terms of the security? This I find difficult as well.

Mr. Daryl Knox: I don't recall that ever being discussed in the meetings, sir.

Mr. Michael Prue: You said that it was secure for two reasons, the first one being for the security of the personnel in terms of the Premier, the finance minister and perhaps the Liberal entourage. But you also said that it was the security of the document. I'm trying to understand what discussion took place, if any, in terms of the security of the document and why you thought you were protecting the document.

Mr. Daryl Knox: It was so no document information came out of the rooms, sir. That's what it was for. In order to patrol that, we had to have spaced times as people came out of the rooms so we could check to make sure that they weren't bringing any piece of the budget with them.

Mr. Michael Prue: How was that facilitated by having the groups leave separately and apart?

Mr. Daryl Knox: I only had so many officers to look after each of these rooms, sir, so we had to make sure teams were in place at certain times to handle the number of people who were involved.

Mr. Michael Prue: Was it exactly the same officers who ran across with the Liberals and then came back and then ran—

Mr. Daryl Knox: No, sir. There were various officers—

Mr. Michael Prue: Then I fail to understand this. I fail to understand. Officers are told what times to attend. It's not one officer doing a duty and then coming back to repeat that duty. It's two separate groups of officers. I don't understand why—if you can explain to me why they could not be instructed to take the people even at the same time, even within a minute of each other.

Mr. Daryl Knox: As I said, sir, that was what was laid down in terms of us to follow by ministry staff, and that's the procedure we followed.

Mr. Michael Prue: All right. I'm not trying to blame you; I'm just trying to determine. Did they give you any rationale for the security of the document other than what you've told us?

1320

Mr. Daryl Knox: Just so nobody would leave the budget lock-up with the document—we had to check for that—and just because of the vast numbers of people. We only had so many officers who could look after that.

Mr. Michael Prue: Did they explain why the government members had to go first and the opposition second? Why couldn't it have been the other way around?

Mr. Daryl Knox: That was never discussed, sir. I don't know why that is, so I can't answer that.

Mr. Michael Prue: Would it have caused any problem to the Ontario Provincial Police if all the opposition members went first and the government went second?

Mr. Daryl Knox: No, sir, it wouldn't. If that's what they'd wanted, that's the direction we would have followed.

Mr. Michael Prue: But you just followed that advice, giving preference to government members.

Mr. Daryl Knox: Yes, sir.

Mr. Michael Prue: All right. You also said that the release depended on instruction from an authorized individual, and that individual, I take it, was Mr. Till.

Mr. Daryl Knox: Yes, sir.

Mr. Michael Prue: Was he the one who ultimately gave the authority for the opposition members to be released?

Mr. Daryl Knox: I believe so, sir. Like I say, I wasn't at that room on that particular day. That was Sergeant Cliteur, so he was waiting for that direction, from my understanding.

Mr. Michael Prue: In the discussions that preceded it, what was the trigger that was going to allow Mr. Till to make that decision?

Mr. Daryl Knox: I don't know, sir—

Mr. Michael Prue: Was it the safe arrival of the minister and the Premier in the Legislature?

Mr. Daryl Knox: That's possible, sir. Like I say, we just waited for the instruction from Mr. Till as to when to release people. We had to wait for an escort. That was the instruction that was given to us.

Mr. Michael Prue: Was any discussion had at any time to make sure that all of the members of the opposition were in their seats by 4 o'clock?

Mr. Daryl Knox: No, sir.

Mr. Michael Prue: That was never stressed?

Mr. Daryl Knox: No, sir. To my knowledge, it was approximate times.

Mr. Michael Prue: So the government and the members, the dozens or so people, had no concern during those meetings that were voiced?

Mr. Daryl Knox: We were given a set of times, sir, and we waited for instructions.

Mr. Michael Prue: I think those are my questions. Thank you.

The Chair (Mr. Bas Balkissoon): Government side, any questions?

Mr. Yasir Naqvi: I just want to thank you, Inspector Knox. I know this is your third time to this committee, and finally you got an opportunity to answer questions. I really appreciate all the time you have put into this. Thank you.

Mr. Daryl Knox: You're welcome.

Mr. Norm Miller: Chair?

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: I'd just like to go back to the statement by the government House leader. You are the head of the Queen's Park OPP detachment, right?

Mr. Daryl Knox: That's correct, sir.

Mr. Norm Miller: Okay. Do you liaise with members or members' offices at all?

Mr. Daryl Knox: Sorry, sir?

Mr. Norm Miller: Do you liaise with members of the Legislature or their offices at all?

Mr. Daryl Knox: No, sir. Basically I would deal with the legislative security services over here. That's who I would deal with, sir.

Mr. Norm Miller: I'm just getting back to the written statement that the House leader made, where she stated that "Unfortunately, the OPP officer did not acknowledge the authority of the staff person who gave the instruction and a more senior staff person had to be directed to the room to ask the OPP officer to let the members leave for the chamber." I'm assuming the House leader got that information by talking to somebody in the OPP. Did you speak with Monique Smith, the government House leader, regarding the lock-up and this—

Mr. Daryl Knox: No, sir, I did not.

Mr. Norm Miller: At any point, did you advise the government House leader that the OPP had delayed opposition members?

Mr. Daryl Knox: No, I did not, sir.

Mr. Norm Miller: Then will you undertake to ask your officers if they told the House leader this and table your findings?

Mr. Daryl Knox: Could you repeat the question, sir?

Mr. Norm Miller: Will you undertake to ask your officers if they told the House leader this and table your findings?

Mr. Daryl Knox: I don't believe any of my officers spoke to any House leader, sir, if that's what you're asking.

Mr. Norm Miller: So if it wasn't the House leader—I don't know why the House leader would put down in written form to the Speaker that the OPP did not acknowledge the authority of the staff person unless she talked to somebody, or her office—

Mr. Daryl Knox: We were speaking to, like I said, Ministry of Finance personnel on that day and they were the ones advising us when to—

Mr. Norm Miller: So it might have been through Mr. Till that this information was provided.

Mr. Daryl Knox: Yes, sir, my information was through Mr. Till. Yes.

Mr. Norm Miller: Okay.

Mr. Daryl Knox: It could have been people he was advising as well who were coming to tell us as well.

Mr. Norm Miller: Okay. Ms. Jones?

Ms. Sylvia Jones: I actually have a question for the Chair.

The Chair (Mr. Bas Balkissoon): Are we finished with Mr. Knox?

Ms. Sylvia Jones: Yes, I am. Thank you.

Mr. Daryl Knox: Okay, thank you.

The Chair (Mr. Bas Balkissoon): Mr. Knox, thank you very much for being here. We certainly appreciate it. Thanks for your time.

Ms. Jones?

Ms. Sylvia Jones: There was a series of documents requested at the end of our last meeting. Do we have copies of those, before we proceed?

The Clerk of the Committee (Ms. Tonia Grannum): We do not. I sent a letter to the deputy minister and I'm waiting for a response.

Ms. Sylvia Jones: So we have received no response at all?

The Clerk of the Committee (Ms. Tonia Grannum): No response at all at this point.

Ms. Sylvia Jones: That does make it slightly problematic to proceed with some of our other questions, Chair.

The Chair (Mr. Bas Balkissoon): I guess the request was for the written timetable and the cellphone bills. It has gone out. It went out on the 26th.

Ms. Sylvia Jones: The request went out?

The Chair (Mr. Bas Balkissoon): Yes.

Ms. Sylvia Jones: And there has been no feedback whatsoever?

The Chair (Mr. Bas Balkissoon): Not yet.

Ms. Sylvia Jones: So what are the repercussions for us as a committee? What are our next steps in terms of—

The Chair (Mr. Bas Balkissoon): We'll continue our deliberations—

Ms. Sylvia Jones: I understand that, but do we have any ability to encourage the reply and, ultimately, the documents?

The Chair (Mr. Bas Balkissoon): I would assume ultimately we will get it. At this time, I have to assume that. Should it not happen, then we will consult with the Clerk's office about how I proceed as the Chair. If you look at the 27th to today, it's not a whole lot of time. To retrieve cellphone bills would probably take a lot longer.

Ms. Sylvia Jones: But retrieving a memo from an email should not take a long time.

The Chair (Mr. Bas Balkissoon): I don't think there was a request for a memo. There was a request for the phone bill and a request for the written instructions that were—

Ms. Sylvia Jones: Which, according to OPP Officer Cliteur, was sent electronically. He destroyed his copy because he retired. There should be an outgoing—

The Chair (Mr. Bas Balkissoon): Ms. Jones, all I would suggest is that the Ministry of Finance staff is up next. Maybe he has it; maybe he can explain it. Can we proceed that way? If we don't get it, then I will have the Clerk's office follow up.

Ms. Sylvia Jones: Just so I understand, what are the next steps if we do not receive it either from the next deputation—

The Chair (Mr. Bas Balkissoon): I would have to inquire because there is no set procedure for conducting one of these inquiries, unfortunately, and our subcommittee instructions to me, as the Chair, were very vague. I would have to take that into consideration and then get back to you.

Ms. Sylvia Jones: Okay.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: If I could, I'm willing to, and I think it prudent that we proceed and hear the people today, but it would have to be on condition that they're subject to recall, because if we find out information in those documents when they subsequently arrive, we should have the opportunity to ask questions of them. I just want the assurance of the Chair that that will happen, that if any committee member, as a result of receiving the documents, thinks of additional questions or wishes to cross-examine on the basis of additional and new evidence, that will not be denied.

The Chair (Mr. Bas Balkissoon): I am being told by the Clerk's office that the assembly may at all times command and compel the attendance—I would assume the same thing for documentation—at the committee.

Mr. Michael Prue: Does the assembly include the committee?

The Chair (Mr. Bas Balkissoon): Yes, it does.

Mr. Michael Prue: Okay, thank you.

Interjection.

The Chair (Mr. Bas Balkissoon): Before the committee considers its final decision or deliberations, so I would assume that does exist. But again, I'm at the mercy of the committee, based on what you request and how we proceed.

Mr. Michael Prue: As I said, I'm prepared to proceed, given that understanding.

The Chair (Mr. Bas Balkissoon): Okay.

MR. TIM SHORTILL

The Chair (Mr. Bas Balkissoon): The next person is Mr. Tim Shortill, if you could come forward. We'll just take a moment for the clerk to have you take a sworn statement.

The Clerk of the Committee (Ms. Tonia Grannum): Do you solemnly swear that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Tim Shortill: Yes.

Mr. Chair: I've prepared a statement which I am prepared to read at this time.

The Chair (Mr. Bas Balkissoon): Committee, Mr. Shortill has a statement. Would you like to hear the statement first?

Mr. Michael Prue: Provided, since he's reading from notes, that we have a copy of the notes to follow along.

1330

The Chair (Mr. Bas Balkissoon): Are you prepared to provide a copy of those notes?

Mr. Tim Shortill: Would it be more appropriate to provide them from Hansard, just in case I happen to deviate from my notes? I think the committee would want the most accurate presentation.

The Chair (Mr. Bas Balkissoon): I think that would be adequate. Mr. Prue?

Mr. Michael Prue: No, I think the rules of evidence are quite clear that when someone relies upon notes, the notes have to be made available to those who are doing the examination and cross-examination.

Mr. Tim Shortill: I take the Chair's direction on that.

The Chair (Mr. Bas Balkissoon): Okay. Can you provide it to the clerk, and she'll copy it before we proceed?

Mr. Michael Prue: Of course, the witness is free to deviate, and we're free to ask why he did. That's why you do it.

Mr. Tim Shortill: Can I provide them afterwards? I would like to read them first.

The Chair (Mr. Bas Balkissoon): Is that adequate, Mr. Prue?

Mr. Michael Prue: No.

The Chair (Mr. Bas Balkissoon): You want it ahead of time?

Mr. Michael Prue: I want them.

The Chair (Mr. Bas Balkissoon): Okay.

Ms. Sylvia Jones: Print them and then do it after—

Mr. Tim Shortill: And then read afterwards?

The Chair (Mr. Bas Balkissoon): Yes.

Ms. Sylvia Jones: —so we have a copy in front of us.

The Chair (Mr. Bas Balkissoon): Okay, Mr. Shortill, you may proceed.

Mr. Tim Shortill: Chair, members of the committee, good afternoon and thank you for inviting me here today. My name is Tim Shortill and I'm the chief of staff to the Minister of Finance.

I was invited here today to discuss with you the 2010 Ontario budget lock-up and the point of privilege that was raised by the member from Parry Sound-Muskoka. The matter raised in the point of privilege was an apparent delay in the release of the opposition caucus from the budget lock-up.

While the delay was not intentional, it was regrettable, and please allow me to apologize to those members of the Legislature who were delayed.

The Speaker referred this matter to committee to review the events leading up to the release of members from the lock-up and to formulate options for the future to ensure that it does not occur again. I hope to address both in my brief opening remarks.

Budget day is a particularly busy day for everyone involved. This includes staff of the Legislative Assembly, members from all three parties, ministry staff and the minister's office staff.

Every year a great deal of time and attention is placed on ensuring the day goes smoothly. We accommodate a large number of people, which entails complex logistics on budget day and includes everything from facilities for the different caucuses and stakeholders to security procedures surrounding lock-up. This is truly a day when there is an effort to ensure that no detail, no matter how small, is overlooked.

There are hundreds of moving parts. While we can anticipate many scenarios throughout the day, there are many on-the-ground refinements that have to be made as circumstances change. Today I hope you will see that out of all of these many elements, it was one poorly executed point that led to the delay of some members in making their way to the chamber.

Traditionally, the budget is delivered after 4 p.m. This is in an effort to ensure that information cannot be used from the budget to take advantage of the markets before its official release. The OPP are asked to provide a secure environment to make certain budget confidentiality is upheld. Throughout the day, members of my staff are present at each of the three caucus lock-ups and stakeholder lock-ups to assist in the logistics of the day.

In the memo I sent to each opposition caucus chair, I outlined that shortly before 4 p.m., the opposition members were to be escorted from the lock-up to the chamber for the presentation of the budget.

It is worth spending a bit of time explaining budget lock-up.

It is tradition that accommodations are made for stakeholders and members of the Legislature to have access to the budget during the day in their respective lock-ups. All participants in these lock-ups sign waivers acknowledging they won't break security protocols or leave the lock-up until it is released. The lock-up is not officially over until the minister stands up to deliver the budget. Parliamentary privilege and tradition allow members to leave the lock-up early to ensure that they can take their places in the chamber before the presentation of the budget.

I mentioned earlier that my staff were present at the lock-ups to assist with logistics. These people who work with me and report to me are assigned different lock-up rooms to help the OPP officers with the release procedure. Some are placed at stakeholder lock-ups, while others are placed with the caucus lock-ups.

1340

Those who are placed with the stakeholder lock-ups have a simple procedure to follow. When the Minister of Finance stands up and begins his speech, an event which is broadcasted, they have their cue to end the lock-up. Those staff who are assigned to the caucus lock-ups have a more complicated procedure since they are releasing the members of the Legislature before the lock-up is officially over. They are supposed to position themselves

in front of the rooms and introduce themselves to the officers present.

When they arrived at the opposition rooms, my staff should have introduced themselves to the OPP officers present and explained their purpose, which was to help in the escort of the members to the chamber. This is where the human error occurred—human error on the part of my staff. Regrettably, those introductions were not made, which led to the delay in the release of some members.

As the committee has heard, the officers on duty were able to communicate with Larry Till to release the opposition members from their lock-ups. Mr. Till is the assistant director of the communications and corporate affairs branch of the Ministry of Finance. On budget day, one of his many duties was to continue as the liaison with the OPP. I say “continue,” because he was the minister’s office liaison with the OPP throughout the planning process.

Once those in the chamber were made aware of the hold-up of some members, the presentation of the budget was delayed until all members were able to arrive. It is worthy to note that members did not miss any part of the presentation of the budget.

I would like to put forth a couple of ideas for your discussion on ways to ensure this can be avoided in future years.

First, I am aware there’s a protocol for parties to move through the catwalk between the Macdonald Block and the Whitney building one at a time. I think I heard Sergeant Cliteur say a couple of weeks ago that moving over 100 members at the same time is a security challenge. We can examine the staging to more efficiently move each caucus over to the Legislature. This is a point I believe some of the members of this committee have raised, not only today but previously.

Second is to better utilize the closed-circuit TVs in each caucus lock-up. In future years we can have better communications with the rooms by updating them on timing by ministry staff through this medium. At the very least, if events are delayed, each caucus should be made aware of the delay and assured the budget speech will not begin until the members are seated in the Legislature.

I will also post more staff to assist with ensuring the cues that are supposed to happen do happen and are recognized and acted upon. For example, instead of having just one staff member assigned to each lock-up, I will assign two or three to ensure that the information that is supposed to flow does indeed flow.

I hope you have found my comments useful for your discussions on this matter. I want to again stress that while the circumstances regarding the delay are regrettable, they were not intentional. We will work to ensure that a new protocol is in place for next year.

Thank you for your time here this afternoon.

Mr. Chair, I’d be pleased to take any questions the committee may have.

The Chair (Mr. Bas Balkissoon): Thank you, and we’ll turn to Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. It seems that in the House leader’s letter to the Speaker, the House leader is blaming the OPP officers for not recognizing the authority of the staff person from the ministry, so I guess I would like to ask about that first of all. Why are the OPP officers being blamed in this case?

Mr. Tim Shortill: I won’t suggest the House leader is assigning blame, but I can say that there is any number, as I said, of moving parts that occur that day. While we try to ensure that they run smoothly, in this case what failed to occur was identification from my staff to the OPP officer. That is, I think, what needs to be addressed in next year’s budget to ensure that the flow of members from the lock-up to the Legislature occurs more smoothly.

Mr. Norm Miller: That differs from what Sergeant Cliteur was saying, as well. He disagreed with the House leader’s statement two weeks ago. He said he phoned several times but wasn’t getting a response. He didn’t say there was a person there claiming to be from the minister’s office who he didn’t recognize. That’s a very different scenario.

Mr. Tim Shortill: No, I’m actually not sure that is different. That’s precisely the point. The member of my staff failed to identify himself, which is precisely why Sergeant Cliteur would not have been aware of his presence. That’s the breakdown that occurred this year that we need to rectify for next year.

Mr. Norm Miller: That does seem to be a difference. I mean, I didn’t hear him saying in any of his testimony—and others can comment on it—“Yes, there was some unidentified person instructing me to release the members, and they claimed to be from the minister’s office.” He didn’t remotely go there. He said that he was using his phone and his other communications devices—his radio, his cellphone—waiting for a response from Larry Till, I believe he said, whom he identified as being the main person in charge, and that he never got that okay, or at least not in time. Any comments on that?

Mr. Tim Shortill: It’s precisely the absence of identification that Sergeant Cliteur did not identify which is what happened. That was the breakdown. The breakdown was a failure to identify part of my staff, their presence, to the sergeant—which is precisely why he would not have commented on it.

Mr. Norm Miller: This member of your staff who wasn’t identified to Sergeant Cliteur—had they been there all day? Were they just showing up at the appointed time to release the opposition caucuses?

Mr. Tim Shortill: They had not been there all day. Each of my staff was roaming through various aspects of the budget day. What failed to happen was an appointed time for them to be at that door to identify themselves. That is a failing on my part. I will ensure that those appointed times are recognized and are scheduled for next year.

Mr. Norm Miller: So what time did the staff person show up at the opposition and third party doors?

Mr. Tim Shortill: I can’t give you a specific time, but as I indicated, that was precisely one of the areas that we need to improve for next year.

Mr. Norm Miller: What was the name of the person who went to the opposition and third party?

Mr. Tim Shortill: This committee has indicated that it wishes to know who's responsible. I take that responsibility, and I'll leave it at that.

Mr. Norm Miller: I asked a question: What was the name of the person? We heard reference to a Dan. Who is Dan?

Mr. Tim Shortill: There is a member of my staff named Daniel.

Mr. Norm Miller: Sergeant Cliteur referred to Daniel in his testimony two weeks ago.

Mr. Tim Shortill: If he was referring to a member of my staff, it would be Daniel, yes.

Mr. Norm Miller: What was Daniel's role in the budget lock-up?

Mr. Tim Shortill: Daniel was one of the people assigned to the caucus rooms.

Mr. Norm Miller: So Sergeant Cliteur knew that Daniel was from your staff. Was Daniel the person who was to go to tell him to release—was he the person who came to tell him—

Mr. Tim Shortill: That was precisely what I think has gone wrong. There was no identified time for my staff to indicate to the OPP officer that the lock-ups should be released. That is one of the aspects that we need to improve for next year.

Mr. Norm Miller: Okay, but Sergeant Cliteur knew Dan. You just said that he didn't know who—there was a problem with identity, but he obviously knew who Dan was, because he talked about him two weeks ago.

Mr. Tim Shortill: Yes, and Sergeant Cliteur also indicated that there was no member from the minister's staff who identified themselves at the time. I can't speak to his testimony. The record would permit that.

Mr. Norm Miller: But you're the author of—I'm calling it a protocol—the memorandum that outlined what you expected to happen, the rules of the lock-up, stating, "Shortly before 4 p.m. MPPs will proceed to the Legislature," and in brackets, it says, "escorted by a member of the minister's office and OPP officers."

Mr. Tim Shortill: Correct.

Mr. Norm Miller: The "escorted by a member of the minister's office" part of it: Is that unique to this year or has that been the case in other years? For the last eight or nine years, I've been to the budget lock-up pretty much every year. It would be easy for me to not notice who the minister's staff was, but I don't recall seeing a minister's person there.

Mr. Tim Shortill: Sure. It is my understanding that that is not unique to this year, that that is something that has occurred in previous years. I can't speak specifically to that, as this was my first year with the Ministry of Finance, but it is my understanding that that has indeed occurred in previous years.

Mr. Norm Miller: So you think it has happened in previous years.

Mr. Tim Shortill: Yes.

Mr. Norm Miller: In making this protocol for this year, is there a file somewhere that shows what has happened in past years?

1350

Mr. Tim Shortill: In fact, that same memo was virtually the same memo from last year. I did not alter it in any significant manner.

Mr. Norm Miller: Coming back to Dan, who is on your staff, how senior a position is Dan?

Mr. Tim Shortill: Daniel is a policy adviser to the minister.

Mr. Norm Miller: So he'd be political staff in the minister's office.

Mr. Tim Shortill: Indeed, yes.

Mr. Norm Miller: Okay.

Who had the authority to give instructions to the OPP to release the members of the opposition and the third party?

Mr. Tim Shortill: The way that the protocol was set for the day is that the communication would come from Larry Till to the OPP officer, but the minister's staff were supposed to identify themselves to the officer to corroborate that. That, in this case, is what went wrong.

Mr. Norm Miller: It seems relatively simple if, obviously, there wasn't a problem on the government side. There's just one other person, who we assume is Dan, for the other two caucuses; is that correct? So there's just really one person.

Mr. Tim Shortill: Yes, and I just want to be careful that—it's not my intention to single out any one of my staff; I'm here to take responsibility on behalf of my staff, as I would do in any scenario.

Mr. Norm Miller: I'm still having trouble with the fact that there is one person whose identity wasn't known. It seems a little hard to believe.

Mr. Tim Shortill: Yes, and as you heard in my statement, I think that's an area that we can certainly adjust for next year. Clearly, this year indicated that our protocol needs some enhancement.

Mr. Norm Miller: So on the budget day, I guess I have to ask, what was more important than having our members in the House, from a protocol standpoint?

Mr. Tim Shortill: I'm not willing to assign levels of importance to any scenario that happened that day. There are any number of moving parts, all of equal importance. I'm not able to differentiate between various aspects of that day.

Mr. Norm Miller: I'll pass it on to Ms. Jones for a moment.

Ms. Sylvia Jones: Thank you. In your opening remarks, you make reference to, "The matter raised in the point of privilege was an apparent delay...." You understand that the Speaker has already ruled on this, and he has ruled that there was a delay. That is why this committee has been struck with finding out the cause of the delay.

Mr. Tim Shortill: Yes, "apparent" in the use of the term that it was obvious.

Ms. Sylvia Jones: Okay.

Also in your remarks, on page 3, you make reference to the procedure. I'm looking at the second paragraph, page 3: "Those who are placed with the stakeholder lock-ups have a simple procedure to follow. When the Minister of Finance stands up and begins his speech, an event which is broadcasted, they have their cue to end the lock-up."

In fact, when I questioned OPP Officer Cliteur last week, the stakeholders were let out much earlier—in fact, earlier than any members of the Legislature.

Mr. Tim Shortill: I'm not aware of that occurring and, if it did occur, that was not the way it was supposed to happen.

Mr. Norm Miller: He was very clear on that.

Ms. Sylvia Jones: It was quite a detailed conversation. We talked about the procedure of who went first, who went second. Mr. Cliteur was quite clear, in fact: "No, stakeholders went much earlier, then the Liberals, then the PCs and NDPs."

Mr. Tim Shortill: Okay. I'm not able to refute that, but if that is what indeed occurred, then that's something that we need to look to next year to ensure it doesn't happen, because it was not supposed to happen that way. As my notes indicated, the stakeholder lock-ups were not to be released until the minister physically stood up and began his speech. We will address that for next year. I appreciate you pointing that out.

Ms. Sylvia Jones: It sounds like there were a series of things that were not to occur that, in fact, happened. I'm questioning why this year's budget lock-up didn't—how shall we say?—flow as well as it has in previous years, because you made reference to the fact that there was consistency in past budget lock-ups.

Mr. Tim Shortill: I think it's fair to say that while we strive for perfection in everything we do at the Ministry of Finance, in this case that certainly was not the way it concluded, and we'll need to do a better job next year.

Ms. Sylvia Jones: Daniel, your staffer who was assigned to the opposition lock-up but in fact was not there and—what were your words?—was roaming, so that was part of the issue with why OPP officer Cliteur was not familiar with what his role was—did he not have his security badge on?

Mr. Tim Shortill: All members of my staff should have had a security badge on. But this is precisely the crux of the issue, in that there were simply not enough protocols in place to ensure that the day operated smoothly. We need to do a better job next year. We need to ensure that there are specific times when my staff are able to be at their assigned places and ensure that the lock-ups are released in a timely manner so that the members can get to the House for the speech. It did not happen this year, and we need to do a better job of that.

Ms. Sylvia Jones: I would, in fact, respectfully disagree: The crux of the matter is that the stakeholders, the opposition members and the Liberal members were treated differently. The OPP officer made it very clear that he had specific instructions from his email meeting—and this comes back to the frustration that I am now

experiencing with not having that email protocol or schedule of events, whatever you want to call it. The OPP officer made it very clear that he had been instructed to wait for one person to release the members, and that was, of course, Larry Till.

Mr. Tim Shortill: If I might address one point you made earlier about Sergeant Cliteur's statement that the stakeholders were released early: I simply find that very difficult to believe. I don't refute what he says. I think he may have been referring to the gallery guests who were in lock-up, who were released early in order to be in their seats for the presentation of the budget. It's my understanding that stakeholders were not released prior to—

Ms. Sylvia Jones: Okay, you're not helping yourself. You've now just told me that the guests of the government get to get over 20 minutes before the elected members of the opposition.

Mr. Tim Shortill: I don't believe I assigned any time to that, but this is precisely the—

Ms. Sylvia Jones: Well, someone did, because they were allowed out 20 minutes earlier than we were.

Mr. Tim Shortill: I'm not aware of what time they were let out.

Ms. Sylvia Jones: I can tell you, from the Hansard of OPP officer Cliteur, now retired: "No, stakeholders went much earlier, then the Liberals, then the PCs" and then the NDP. How much clearer do we have to be, other than Hansard?

Mr. Tim Shortill: I'm just saying I'm not aware that any stakeholders were let out prior to the ending of the lock-up.

Ms. Sylvia Jones: Where were you when all this was happening? Were you over at the lock-up?

Mr. Tim Shortill: At what time, precisely?

Ms. Sylvia Jones: Let's say, from 3:30 till 4.

Mr. Tim Shortill: From roughly after 3:30 I was with the Minister of Finance. I accompanied him over to the Legislature. Whatever time he happened to arrive there, I was seated there.

Ms. Sylvia Jones: And the Minister of Finance did get into the chamber before 4 o'clock, I assume?

Mr. Tim Shortill: I'm not aware of the specific time, but I believe that he did arrive shortly after 4 to give his presentation. I was in the chamber at that time.

Ms. Sylvia Jones: Is that because the OPP officer was waiting for you to approve the minister to be released?

Mr. Tim Shortill: No, that's not the case.

Ms. Sylvia Jones: I don't have any further questions.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: I've got a tonne. Let's start with your statement here. Who wrote this statement?

Mr. Tim Shortill: I wrote this statement.

Mr. Michael Prue: When did you write it?

Mr. Tim Shortill: I wrote it initially for my first appearance before the committee. I believe that was three weeks ago. It's been refined sometime since then.

Mr. Michael Prue: Why did you feel it necessary to refine it?

Mr. Tim Shortill: I'm a perfectionist, and I love to ensure things are as good as they can be.

Mr. Michael Prue: Who did you show this to? Did you vet it with any of your colleagues? The finance minister?

Mr. Tim Shortill: No, the minister has not seen this. My staff have seen it.

Mr. Michael Prue: Did they approve it?

Mr. Tim Shortill: There were no approvals. It's my statement; I approved it.

Mr. Michael Prue: Why did you feel it necessary to show your staff?

Mr. Tim Shortill: I think in any—

Mr. Michael Prue: The reason I ask that is because your staff may be called as witnesses. Did you want them to see in advance what you were going to say?

1400

Mr. Tim Shortill: No, I wanted some, I guess, second opinion about what it is that this committee feels that they want to hear, in terms of what went wrong that day and how better to address it in the future.

I also had some conversations about how we can better improve the protocols in the future, and much of that was fed into my statement here.

Mr. Michael Prue: Okay, and your statement reflects your own opinion plus those opinions of your staff who saw it and gave you feedback.

Mr. Tim Shortill: It reflects my opinion.

Mr. Michael Prue: But you did make changes. Did you make the changes after you consulted with your staff?

Mr. Tim Shortill: I don't recall the actual steps. I made changes ever since it was first drafted, to better refine the statement—

Mr. Yasir Naqvi: On a point of order, Mr. Chair: We were talking about rules of evidence before, by the honourable member. What is at stake here is Mr. Shortill's testimony, which is given under oath, not the statement as to how he wrote the statement. What matters is the testimony he has made, and that's what the cross-examination should be on, not his statement. The statement is not in evidence. It's his testimony under oath, which is given to this committee.

Mr. Michael Prue: With the greatest of respect, this statement was made under oath.

The Chair (Mr. Bas Balkissoon): Mr. Prue—

Mr. Michael Prue: How is it any different from his answering questions?

Mr. Yasir Naqvi: The questions should be asked about the statement and the content, not how the statement was written.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi, thank you for your point of order. I don't believe I have any clear court procedures from the subcommittee. I have procedures to conduct a line of questioning so members can find out what happened.

Mr. Prue, you can continue, but I would ask you to show respect to the gentleman's input.

Mr. Michael Prue: Absolutely. I'm just trying to get to the bottom, because we have to determine, as a committee, what weight we are to give to the statement as well as the other things that he said.

The Chair (Mr. Bas Balkissoon): I would say that, as a committee, we're asking the folks who have come before us to co-operate with us to get to the bottom of what went wrong.

Mr. Michael Prue: Absolutely. That's what I'm trying to do too.

Mr. Tim Shortill: If there's any ambiguity for the members of the committee, I wrote the statement, and I take full responsibility for the statement.

Mr. Michael Prue: All right. Let's go on. According to Sergeant Cliteur, you were in charge of a number of meetings that both he and I think it was Sergeant Knox—or Officer Knox, anyway—attended. Were you the person who called the meeting? Were you in charge of the meeting?

Mr. Tim Shortill: There were several meetings that occurred, to my knowledge, during the budget process. I only attended one of them with Sergeant Cliteur. So while I was not in charge of those meetings and I did not call those meetings, I am ultimately responsible for the outcome of those meetings.

Mr. Michael Prue: Who was in charge of the meetings? Who called them?

Mr. Tim Shortill: I'm not aware that the meetings that proceeded through the budget process are as formal as to have a chair or someone in charge. They're simply meetings that occur in the course of planning of any number of events that the ministry and the government perform.

Mr. Michael Prue: I understand that, but this is not some ethereal function that's just pulled out of the air: "Let's have a meeting." Somebody had to determine that a meeting was necessary to get the participants for the day in a room to give instructions. Who was that person? Was it the finance minister?

Mr. Tim Shortill: It was not the finance minister. But I'm not aware of who chaired or called these meetings, as I was not at them except for one.

Mr. Michael Prue: All right. Which one were you at? The last one?

Mr. Tim Shortill: I'm not aware of the sequence of the meetings. I was at a meeting with my staff and Sergeant Cliteur, where we ran through sort of the protocols that the OPP would provide for the day. That is the only meeting that I recall being at.

Mr. Michael Prue: How many people were at that meeting?

Mr. Tim Shortill: It was my staff, so however many—20.

Mr. Michael Prue: So on the day you attended, there were 20 staff, and you went through the protocols. You said the protocols were not changed much from previous protocols.

Mr. Tim Shortill: That's my understanding. Having not been at the Ministry of Finance for previous budgets,

I can't speak intelligently to the specificity of that statement, but that's my understanding.

Mr. Michael Prue: Did you make changes? Who made changes that were made?

Mr. Tim Shortill: In order for me to answer that, I'd have to know in detail the way it worked in previous years. I am simply not aware of that, so I can't indicate that any changes were made. I can say that this was the way that the protocols developed for that day, and I do take responsibility for those.

Mr. Michael Prue: Again, this was not developed out of thin air. You had a set of protocols that went back to previous meetings. Then you held the meeting and determined that some—although minor—changes were going to be made. You must have been aware—somebody on your staff must have had those previous minutes, those previous instructions, in order to make changes to them.

Mr. Tim Shortill: We certainly have some of the rough outlines of how this worked in the past. I'm not aware that they changed significantly.

Mr. Michael Prue: How do you know they changed at all?

Mr. Tim Shortill: That's exactly the point I was making earlier. I don't, not having been there, but I'm aware that we have not changed the protocol significantly this year, although maybe now is the time that we need to revisit that.

Mr. Michael Prue: I'm just trying to determine—and I'm trying to be fair to you—what changes, if any, were made. You're not aware but you think changes were made, and you don't know who made them and you don't know who was running the meeting.

Mr. Tim Shortill: No, I wouldn't characterize it that way. I can't speak intelligently on what specific changes were made, so I don't want to give this committee the impression that none were made. It is my understanding that we did not significantly change our procedures this year from previous years.

Mr. Michael Prue: All right. Now, your 20 or so staff were in a room with OPP police officers. Who else was present?

Mr. Tim Shortill: My staff and Sergeant Cliteur. I stand to be corrected, but I don't believe there was anyone else there.

Mr. Michael Prue: Was there a discussion as to the release times, the times that people would be released?

Mr. Tim Shortill: I can't recall.

Mr. Michael Prue: How is it that the Minister of Finance, the Premier and the assembled Liberal members were chosen to leave first? Who made that decision?

Mr. Tim Shortill: That is a process that existed previously. Ultimately, I signed off on that. As my statement indicates, I think that is something we should revisit for a discussion for next year.

Mr. Michael Prue: Who made the decision as to what time the gallery guests would get there? Because when I got there—and I was not in the lock-up—the gallery

guests were all there, even before the Minister of Finance arrived. Who made that decision that they'd get to go?

Mr. Tim Shortill: I'm not aware of the answer to that.

Mr. Michael Prue: Surely the OPP must have given some instructions, if they were told not to release MPPs but you could release any gallery guests who were invited by the government.

Mr. Tim Shortill: I can't answer your question in that regard.

Mr. Michael Prue: Who could?

Mr. Tim Shortill: I'm not aware.

Mr. Michael Prue: All right.

Questions were asked about why people were escorted. We've heard from two witnesses in a row, both police officers, that they escorted people at different times due to the security of the person of the finance minister and the Premier and of the security of the document. Why was the Premier or the finance minister's security at risk if they were accompanied across the street by members of the opposition?

Mr. Tim Shortill: I know that's a question that you've put to both OPP officers, and I think they were the appropriate people to answer that. I shouldn't be answering security protocols on their behalf.

Mr. Michael Prue: But you instructed them on the security protocols.

Mr. Tim Shortill: No.

Mr. Michael Prue: You told them what—somebody told them what—they didn't make it up.

Mr. Tim Shortill: The OPP are tasked with providing the security and the confidentiality of the budget process and the budget for that day, but they do have discretion within on how they deliver on that mandate.

Mr. Michael Prue: Did you have any discussion on how the document was to be protected by letting members of the gallery go before the budget even started? These are people who are not even sworn in the Legislature; they're not even opposition MPPs. They're just people who got a ticket from the government for the glorious day; I put it that way.

Mr. Tim Shortill: Yes. I did not have discussions with them in that regard.

Mr. Michael Prue: Does this not bother you, that all of these people who have no fealty to the Legislature or to the process were let go even before the finance minister was?

Mr. Tim Shortill: I wouldn't want to impugn anyone who participates in the budget process, but I can say that what bothers me is, there are any number of areas where the protocols this year can be improved, and that's certainly what we're going to endeavour to do for next year.

Mr. Michael Prue: Questions were asked about Daniel, and I take it this Daniel was Daniel Malik. Is that who the person we're talking about is?

Mr. Tim Shortill: If you're speaking about Daniel from my staff, that is indeed the person.

Mr. Michael Prue: Where was Daniel Malik positioned at approximately a quarter to 4?

1410

Mr. Tim Shortill: I'm not sure where he was positioned. I can say that he was supposed to be positioned outside of the caucus lock-ups, but this is once again where I think the protocols failed and where I need to do a better job next year ensuring that my staff are where they need to be at the appropriate time to ensure that the day runs smoothly.

Mr. Michael Prue: Was he positioned in front of both the NDP and the Conservative lock-ups? Although they're close, they are probably 20 metres apart.

Mr. Tim Shortill: Like I said, I'm not sure where he was positioned, but those doors were relatively close to one another.

Mr. Michael Prue: Did he give the same instructions to the police officers in front of each of the lock-ups? Again, I was not there this year but I've been there on other years and there are different police officers in front of each.

Mr. Tim Shortill: Yes, that's my understanding, that there are different police officers in front of each.

Mr. Michael Prue: Did he instruct or attempt to instruct both?

Mr. Tim Shortill: No, I don't believe he did.

Mr. Michael Prue: So this was all down, again, to Mr. Till's phone call, when the police officer eventually said, "We can let them go"?

Mr. Tim Shortill: What I think needed to occur—

Mr. Michael Prue: No, we're trying to find out what happened. We can talk about what needs to occur; that's the job of the committee, perhaps with your advice. We're trying to find out what exactly happened.

Mr. Tim Shortill: I would also submit to you that not only should we examine what happened, but what failed to happen. What failed to happen was an appointed time for each lock-up to be released and for that to be confirmed. That is what we need to, I believe—subject to any thoughts this committee has—address for next year.

Mr. Michael Prue: What time was the Conservative caucus allowed to go?

Mr. Tim Shortill: I'm not aware of the specific time.

Mr. Michael Prue: What time was the NDP caucus allowed to go?

Mr. Tim Shortill: I'm not aware of the specific time.

Mr. Michael Prue: Was it at identically the same time or were they separated?

Mr. Tim Shortill: Having not been there, I'm not aware if they were released at the same time or slightly before or after one another.

Mr. Michael Prue: Who was in front of the Liberal caucus, which staff member?

Mr. Tim Shortill: I can't recollect.

Mr. Michael Prue: Was it Mr. Malik?

Mr. Tim Shortill: No, it was not.

Mr. Michael Prue: Why is there a different person in charge of the Liberal lock-up, as opposed to the opposition?

Mr. Tim Shortill: Sure. That just has to do with the geography of where the rooms are. One is on the other

side of the Macdonald Block, that being the government caucus room. On the far side of the Macdonald Block are the NDP and Conservative lock-ups. It's geography.

Mr. Michael Prue: Was there any difficulty in Liberals getting to leave the room? And if not, why not?

Mr. Tim Shortill: I'm not aware of any difficulty. In terms of why not, I think it's because they proceeded first from the Macdonald Block to the Whitney Block. As your question has indicated and as my statement has indicated, I think that's something that we need to examine for next year.

Mr. Michael Prue: Who gave authority for the Liberals to leave the room?

Mr. Tim Shortill: The Liberals follow the Premier and the Minister of Finance out, so ultimately that approval was mine, as I left the lock-up with them.

Mr. Michael Prue: So you gave authority for them to leave. Why did you give authority for them to leave when the authority had not been given for the opposition?

Mr. Tim Shortill: And that is precisely the point. We failed in ensuring that the opposition lock-ups were released in a timely manner.

Mr. Michael Prue: But you gave the authority of your own volition. It wasn't a third person. It wasn't a Mr. Malik, it wasn't a Mr. Till; it was you yourself.

Mr. Tim Shortill: Ultimately it was, in that regard.

Mr. Michael Prue: Was that part of the protocol?

Mr. Tim Shortill: I'm not sure if I was specifically identified as the person who would do that, but in practice, that's what occurred that day.

Mr. Michael Prue: Okay, but this is the whole question. There was a protocol. The protocol, the officers followed to the letter in terms of who they would deal with: They would only deal with Mr. Till; they would not deal with Mr. Malik. I would have to assume that the same protocol went for the Liberal Party, but the officer in charge on the other side didn't wait for Mr. Malik or his equivalent or Mr. Till or his equivalent. They let them go on your say-so. I'm wondering, was that part of the protocol, that you could let the Liberals go and somebody else of a more junior position would let the others go?

Mr. Tim Shortill: I think in everything that occurred that day, the protocols were, in themselves, not sufficient to ensure that the day ran smoothly. That's what we need to address for next year. And I need to ensure that the right direction is given at the right time so that those members can leave the lock-up to proceed to the Legislature.

Mr. Michael Prue: Again, I'm having some difficulty. The officers were under instruction to follow a very strict protocol, yet it does not seem that you yourself followed that protocol, if the protocol was that they were supposed to be released on the say-so only of Mr. Till. You walked out with the Premier and the finance minister and you, the boss of the others, were gone. What protocol was followed there?

Mr. Tim Shortill: I'm not aware of the specific protocol except to say that when the Premier, the finance minister and myself, along with our caucus, left the room,

instructions should have been given to release the other two caucus lock-ups.

Mr. Michael Prue: I acknowledge that. But I'm trying to get to the bottom of this protocol—which we have not seen yet; that you say was altered possibly in some small way, but you didn't see the first one—exactly what was said and who was supposed to give the okay so it's orchestrated and clear and one person is making the decisions. It's clear that that's not what happened. It's clear you made one set of decisions. Mr. Till possibly made another. Mr. Malik attempted to make some. I'm trying to find out how it is that the OPP would accept your instructions when you had no authority to give them—at least, not in the protocol.

Mr. Tim Shortill: Yes, and I think the protocol is what needs to be revisited for next year. You're clearly identifying areas where it needs to be strengthened, to better ensure that this works a lot better than it did this year.

Mr. Michael Prue: A few more questions here. You said those staff who are assigned to caucus lock-ups have a more complicated procedure than those who position themselves in front of other rooms. People who were not gallery guests, what time were they instructed—what time could they leave?

Mr. Tim Shortill: I'm not aware of what time they were instructed or what time they left.

Mr. Michael Prue: And gallery guests, you're not aware of when they could leave?

Mr. Tim Shortill: No, I was not aware.

Mr. Michael Prue: Okay. The Liberals left when you said, "You can go." You made the decision.

Mr. Tim Shortill: When the finance minister was ready to proceed to the House, that's when he and the Premier and the accompanying Liberal members left.

Mr. Michael Prue: Okay. So the decision, then, was made by the finance minister, who said, "I'm ready to go," and you gave the order.

Mr. Tim Shortill: I'm not sure it was anything as specific as that. He was ready to go, and we left.

Mr. Michael Prue: Because what we're trying to determine here is—when the opposition members said, "We're ready to go," there was quite a different scenario unfolding.

Mr. Tim Shortill: Absolutely, and that is, as I've said, what needs to be addressed for next year.

Mr. Michael Prue: Okay. You say that human error occurred, human error on the part of staff. The protocol, as far as the police officers were concerned, was set out after many years of discussion and in fact several meetings, of which you were privy to one. They seemed to understand the protocol very well and followed it, it seems, in every case, except when it came to your order to release the minister.

Mr. Tim Shortill: Yes, I think I've been very clear that the failing certainly falls on my shoulders and I take responsibility for that.

Mr. Michael Prue: Where was Mr. Till on the day?

Mr. Tim Shortill: I'm not aware of his specific location.

Mr. Michael Prue: Was he in the Liberal caucus lock-up with you?

Mr. Tim Shortill: When I was there, no, but I'm not aware of whether he was in there at any point during the day, or in any of the other lock-ups, for that matter. I don't know.

Mr. Michael Prue: There was also a news scrum with more newspaper reporters than I'll ever see in my life, all in one room, on that day—always.

Mr. Tim Shortill: Certainly.

Mr. Michael Prue: Was he in there?

Mr. Tim Shortill: I'm not aware that he was. It would make sense that he was, but I can't speak to that specifically.

Mr. Michael Prue: You have no idea where he was when these phone calls were made. Do you know how he made the phone calls, eventually, to the OPP?

1420

Mr. Tim Shortill: I'm sorry, I did not—

Mr. Michael Prue: Were they made on a phone, or were they made on a walkie-talkie?

Mr. Tim Shortill: I do not know.

Mr. Michael Prue: Okay. You wrote: "On budget day, one of his many duties was to continue as the liaison with the OPP. I say 'continue' because he was the minister's office liaison with the OPP throughout the planning process." But he was only the minister's liaison, surely, when it came to the opposition. Is that not correct?

Mr. Tim Shortill: No, the OPP had requested a singular point of contact, and Larry Till was identified as that. This was not only for the day but for the planning that led up to that day.

That's not to say that he was the only one interacting with the OPP leading up to the day. As I indicated, I was certainly in a meeting with them. But it was the intention that he was the singular point of contact for the day, and he certainly was the primary contact in the planning process.

Mr. Michael Prue: You give a suggestion here, and I quote it: "Second is to better utilize the closed-circuit TVs in each caucus lock-up." Where are the closed-circuit TVs located?

Mr. Tim Shortill: It's my understanding that there is one TV in each of the caucus lock-ups.

Mr. Michael Prue: Yes, and? That's for incoming. That's to watch the news reports.

Mr. Tim Shortill: Yes.

Mr. Michael Prue: It's to watch the scrums—

Mr. Tim Shortill: The scrums.

Mr. Michael Prue: Yes.

Mr. Tim Shortill: Sure.

Mr. Michael Prue: How would you better utilize those?

Mr. Tim Shortill: I think that's something that we can look at. My intention in presenting that idea was, if there are delays in the day—unforeseen circumstances that occur—we can use those TVs to communicate to the

people who are in the lock-ups that there is a delay, the nature of the delay, the timing that will be affected or, frankly, any other pertinent information that needs to be communicated on that day. I'm not saying we've done a lot of work in examining the feasibility of that, but it's an idea that I put forward.

Mr. Michael Prue: I think those are my questions for now. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you, Mr. Prue. The government side, Mr. Naqvi.

Mr. Yasir Naqvi: Thank you again, Mr. Shortill, for taking the time. I really appreciate your candid testimony. I appreciate your taking the responsibility, showing remorse as to what happened and undertaking to ensure that protocols are refined so that type of thing does not happen again.

I do understand that this is your first budget as the chief of staff to the Minister of Finance, so you are probably new to a lot of the protocols that are in place. Do you have any sense of how long these protocols as to the budget lock-up have been in place, the ones you were using?

Mr. Tim Shortill: I've participated in budget lock-ups a few times since 2004. While I didn't notice significant differences from the first budget lock-up I participated in, in 2004, to this one, I would certainly accept that there were changes, but I certainly did not notice them.

Mr. Yasir Naqvi: Okay. Obviously, I take it that there's quite a close collaboration between the OPP and the Ministry of Finance and your office to ensure that the security details are fully undertaken. I understood, from the OPP officer's testimony, that a lot of the protocols around security, as to the nature of the security—is that something the OPP determines is where their expertise comes into play?

Mr. Tim Shortill: Yes. Very much we defer to the OPP on the best way for them to maintain the integrity and security of the budget and the budget process. Yes, we very much defer to them as, frankly, the experts in that regard.

Mr. Yasir Naqvi: What steps did you take on your end to prepare your staff for that particular day?

Mr. Tim Shortill: I'll answer with the steps we took, and with your permission, I'd like to sort of indicate how I think we can do better.

In the one meeting that I indicated I participated in with the OPP, we discussed the protocols and the events of the day. What I think we need to do is for me and my staff to have a better understanding of more of the specifics of how the day should be run and organized. That's something that I will endeavour to better for next year.

Mr. Yasir Naqvi: You suggested a couple of ideas, and Mr. Prue was talking about the closed-circuit ideas. It's interesting. I think you'll probably have to look a little bit more in detail. You'd have to put in additional TVs or something in the room. Have you thought about some sort of trigger time mechanism or a backup time mechanism where, basically, if that time is reached and

the members are not released then they're automatically released and escorted to the Legislature?

Mr. Tim Shortill: Yes. It's certainly an idea that I've discussed. I didn't reference it in my comments only because I think that's something that I would want to discuss with the OPP to see if there are any downsides to that that I'm not aware of. I'm not currently aware of any downsides, but that is the one reason that I omitted that from my statement. But to answer your question, yes, we did think about that after the fact.

Mr. Yasir Naqvi: I'm hoping and I'm assuming that after the deliberations, if there are some suggestions or recommendations that come from this committee as to how better to improve the processes next year, you and your office will be open to seriously considering those.

Mr. Tim Shortill: Oh, absolutely. I mean, there's probably no better audience to receive positive feedback on that than the actual members of the Legislature. So to answer your question, yes, absolutely.

Mr. Yasir Naqvi: Thank you very much. Again, I really appreciate—it took three different days for you to get here and talk about what went wrong. It's unfortunate, and hopefully we will rectify that and it will not happen again in the future. Thank you for your time, Mr. Shortill.

Mr. Tim Shortill: Thank you.

The Chair (Mr. Bas Balkissoon): Any further questions? Mr. Miller?

Mr. Norm Miller: Mr. Shortill, I'd like to come back to the gallery guests and stakeholders. Sergeant Cliteur stated in Hansard that the—he called them stakeholders—were released 20 minutes before 4 o'clock; I believe that's what he said. You stated that that wasn't stakeholders, they were gallery guests. Were there separate lock-ups for the gallery guests and for the stakeholders?

Mr. Tim Shortill: That's actually a good question that I don't have the answer to, but I'm going to endeavour to find out. That's a specific aspect of the day that I'm unaware of at this point, but it's certainly something that I'm going to look at. Also, unless I am mistaken—I'm also going to inquire about the release of the stakeholders, because while it was not my understanding that they were released prior to, I do accept that that possibility could have occurred and I'm going to endeavour to look at that.

Mr. Norm Miller: Because from the Hansard, Sergeant Cliteur said very clearly, "No, stakeholders went much earlier, then the Liberals, then the PCs and NDPs." He was quite clear on that.

I must admit, I can't see why any gallery guests would be partaking in a lock-up. I can see stakeholders being in a lock-up, but I think people who were there to visit and watch the proceedings of the budget would not normally be people who would be in a lock-up, so I have a little difficulty with the thought that these are not the same people. I would think they're the stakeholders, as described by Sergeant Cliteur.

Mr. Tim Shortill: Yes, and I would accept that that possibility exists. Those are certainly some questions that

I'm going to have to take back and ask, and also to ensure that a more rigorous protocol is in place for next year in that regard. Certainly, if the stakeholders were released prior to the lock-up ending, that is a deficiency that we need to correct.

Mr. Norm Miller: Back to the protocol: Was it written in the protocol, which we haven't—I mean, we've got the protocol that states that shortly before 4 p.m., MPPs will proceed, but there was obviously another one which was referred to by the OPP officers. Sergeant Cliteur purged his, and I believe we'll eventually get a copy of the other protocol. So on that protocol, did it state that the government members were to be released first? And I guess also—I'll ask that after.

Mr. Tim Shortill: My understanding is that the protocol indicated that all three lock-ups would end at the same time. What occurred is a staging within that. So I would accept that a protocol doesn't go down to the very specific minute, but maybe in this case it should have. But it was the intention that they were released—I don't want to say all at the same time, because that implies that, I think, some of the questions where they all exit at the same time—roughly within the same time period, where they're staged one after another to cross.

1430

I can't recall if the protocol was as specific to say that the governing caucus would go first, then others. That's certainly the way it played out. I can't speak specifically to that level of detail in the protocol, but I would almost wonder if that's what we need to build in for next year.

Mr. Norm Miller: Had the Minister of Finance or the House leader seen your memorandum to opposition and third party—

Mr. Tim Shortill: The Minister of Finance, I don't believe, did. I certainly did not show it to him. I'm trying to remember if a copy was sent to the government House leader. I don't know.

Mr. Norm Miller: So the minister didn't have to approve either your memorandum or the more detailed protocol that was referred to?

Mr. Tim Shortill: No. Ultimately that was approved by me.

Mr. Norm Miller: What was your relationship with Larry Till, who, from what I understand, is the person whom the OPP was waiting to receive instructions from at the opposition and third party lock-ups?

Mr. Tim Shortill: Larry, being an assistant director of communications within the ministry, was the person appointed to be the point of contact for the OPP.

Mr. Norm Miller: So who had the authority to give instructions to the OPP stationed at the lock-ups to release them?

Mr. Tim Shortill: Larry was to be that point of contact. I don't know if that constitutes authority in the vein of your question, so I can't answer that probably to the level of specificity that you would want.

Mr. Norm Miller: Was it more than one person?

Mr. Tim Shortill: The OPP had asked for a singular point of contact; that was Larry.

Mr. Norm Miller: Okay. So the other people—was there a list and was this list provided to the OPP officers? If there was more than one person, were their names on the list and was the list circulated?

Mr. Tim Shortill: I don't believe there was more than one person. I don't know that a list was circulated. I'm not sure how we communicated to the OPP that Mr. Till was to be the point of contact. I don't know if that was done in a meeting or verbally. I simply wasn't a party to that.

Mr. Norm Miller: But they'd had several meetings with Mr. Till.

Mr. Tim Shortill: Sure.

Mr. Norm Miller: It seems pretty clear they knew he was the authority. It's a question of whether there were other people, like Dan, for example, who had authority that they may or may not have been aware of.

Mr. Tim Shortill: Yes, I would accept that. It's possible that that was communicated in meetings but I don't know for sure.

Mr. Norm Miller: But the actual decision on the timing—I assume it's going to be Larry Till making the call to Sergeant Cliteur to say, "Okay, release them." Have I got the right chain there?

Mr. Tim Shortill: That's certainly the way it was anticipated to happen. Unfortunately, we didn't set a specific time by which that would occur, which I think was the question from the government side: Is that something that we would consider for the future?

Mr. Norm Miller: Although the House leader says that—I'm assuming it was Dan who was there but Dan wasn't recognized by Sergeant Cliteur, so that's why the House leader is saying the OPP didn't release the members.

Mr. Tim Shortill: In that respect, I think the failing, as I indicated, was my staff failed to identify themselves to the OPP, rather than the reverse.

Mr. Norm Miller: That one I have trouble with, I'm sorry to say, especially when the officer testified that he knew the name "Dan," the person who was the emissary from the minister's staff who was to be the person who communicated. A couple of months later, he knows the name of this person, so it seems like he did know the identity. The police officer between the two lock-ups two months later recalls the name of the person who you are saying they didn't know the identity of. I have a little trouble with that.

Mr. Tim Shortill: I'm drawing the distinction between knowing the identity of and identifying to the OPP that they were the person from the minister's office there as the point of contact with the minister's office, but I can't speak to who Sergeant Cliteur knew or not.

Mr. Norm Miller: I'd have to check back through the Hansard, but I think in Sergeant Cliteur's testimony, he did identify Dan as being from the minister's staff. He knew he wasn't in the ministry; he said "the minister's staff."

Mr. Tim Shortill: Yes.

Mr. Norm Miller: I'll pass it on, then. Thank you.

Ms. Sylvia Jones: Thank you. You mentioned that you attended one, but there was a series of meetings attended by I think at one point you said 20 members of your staff—a staff briefing with Mr. Till and OPP officers. Who sent the memo notifying your staff and yourself of those meetings?

Mr. Tim Shortill: Just to be clear, I attended one meeting with all of my staff and Sergeant Cliteur. I imagine I set that up or someone in my office set that up; I can't recall specifically.

In terms of a series of meetings that occurred outside that, that's just my understanding. I say "series" because I don't know how many or when they occurred.

Ms. Sylvia Jones: If you set up the main meeting of your staff and the OPP, the perception would certainly be, within your staff—and correct me if I'm wrong—that you would be leading the meeting.

Mr. Tim Shortill: Sure. I would not characterize it as the main meeting. It was a meeting with my staff to walk through the events of the day. I would certainly submit to you that in that meeting I was the lead from my staff, absolutely, but there was no chair or identified lead of the meeting. This was simply a meeting with Sergeant Cliteur to discuss the operations of the day.

Ms. Sylvia Jones: But you did initiate the meeting.

Mr. Tim Shortill: I certainly did, yes.

Ms. Sylvia Jones: Did this meeting occur after the series of meetings that had already happened, setting out the day, and this was simply giving your staff an overview of what they could expect on budget day?

Mr. Tim Shortill: Yes. It was certainly to give my staff a sense of an overview of the day. I'm not sure where it occurred in all of the—I mean, you can imagine there are any number of meetings, both on the policy and the operations side, that occur in the formulation of the budget. I'm not sure where, in that sequence, this meeting fitted in, so I can't answer your question in that regard.

Ms. Sylvia Jones: Okay. Based on that, was there ever a final meeting prior to the budget that said, "This is what my expectations are of you, my staff members, on budget day"?

Mr. Tim Shortill: I don't recall that there was. Having just thought of your question now, I would submit that that was certainly a failing on my part and something that could be addressed for next year. I'm not aware that we did such an end meeting like that. I'm not sure if you intended that to be a suggestion, but it's certainly a well-received one.

Ms. Sylvia Jones: It could be a suggestion now. I guess part of the reason I'm asking is, whoever initiates a meeting—it is generally accepted that the initiator of the meeting is going to lead the meeting. In other words, the agenda will be set up by the person who requests the meeting, and everyone leaving the meeting should have clear understanding of their roles, their responsibilities, in this case referencing the budget day itself.

Mr. Tim Shortill: Sure. Ideally, that's the way that could have occurred and maybe should have occurred.

Ms. Sylvia Jones: Okay. Can you tell me how many of your ministerial staff were assigned to the lock-up rooms?

Mr. Tim Shortill: I can't. It's my understanding that there was probably one for each. I would stand to be corrected in that respect. As my statement indicated, I think that's certainly something we need to augment for next year, to ensure that there are at least some redundancies in place and that miscommunication doesn't happen.

Ms. Sylvia Jones: What I'm starting to try to get a picture of is—I understand Dan Malik was the point person from your office dealing with both opposition lock-ups. Is that correct?

Mr. Tim Shortill: It's my understanding that that was the intention. I will not submit that the interactions were to complete satisfaction, though.

Ms. Sylvia Jones: So he was roaming more than he was monitoring.

Mr. Tim Shortill: I can't speak to exactly what he was doing.

Ms. Sylvia Jones: Okay. There was another staffer assigned to the government lock-up?

Mr. Tim Shortill: I believe there was, but I can't say for any certainty who that was.

Ms. Sylvia Jones: Okay. There was a third staffer assigned to the—you will call them gallery guests; I will call them stakeholders.

1440

Mr. Tim Shortill: I would submit that there should be, but I'm going to have to ask to ensure that there was.

Ms. Sylvia Jones: You mentioned in reference to a question from my colleague that the OPP had asked for a single point of contact, and they were given the name of Larry Till. Is that your understanding?

Mr. Tim Shortill: Yes, it is.

Ms. Sylvia Jones: Can you tell the committee why the OPP would have asked for that single point of contact?

Mr. Tim Shortill: I can guess, but I'd prefer not to guess why. I just assume it was in terms of efficiency of communication, but that's a question that's best put to them.

Ms. Sylvia Jones: Well, let's guess together. My guess is that the OPP asked for a single point of contact because they wanted to ensure that not anyone other than the point of contact—in this case, Larry Till—had the responsibility, was assigned the responsibility of allowing the OPP to release their lock-up "guests," shall we say.

Mr. Tim Shortill: I would allow for that possibility, but I can't speculate on its accuracy.

Ms. Sylvia Jones: Did Larry Till understand that he was the single point of contact for the OPP?

Mr. Tim Shortill: I can't answer on his behalf.

Ms. Sylvia Jones: Did you understand as the chief of staff that it was Larry Till's responsibility to have the single point of contact with the OPP?

Mr. Tim Shortill: Yes.

Ms. Sylvia Jones: Were the meetings with the OPP to set out the protocol dealt with by Larry Till and the OPP or by members of your staff, Larry Till and the OPP?

Mr. Tim Shortill: Having not been at the meetings, I can't say for sure.

Ms. Sylvia Jones: Who did you assign within your staff to look after security for the budget day lock-up?

Mr. Tim Shortill: The OPP were assigned that task.

Ms. Sylvia Jones: So why was the OPP having so many meetings with your staff?

Mr. Tim Shortill: I imagine, as you can, that there are any number of meetings that need to take place to plan an enormous event such as budget day. I would like to think that those meetings are necessary in order to ensure the day goes as smoothly as it can.

Ms. Sylvia Jones: You mentioned in reference to another question that my colleague asked that you ultimately approved this year's protocol for the budget lock-up.

Mr. Tim Shortill: That's correct.

Ms. Sylvia Jones: And you also mentioned in response to a comment from the NDP member that you had not reviewed previous years' protocols. Is that correct?

Mr. Tim Shortill: I reviewed the previous year's memo, of which I sent a similar one this year.

Ms. Sylvia Jones: But the details—you also said that there were changes made. In reference to the Vice-Chair's question, you said that there were changes made to the protocol, but you would not want to get into specifics of what those changes were?

Mr. Tim Shortill: Yes, and as I indicated to Mr. Prue as well, it's my understanding that we did make some modifications this year. But having not been intimately involved in the process last year, I can't say exactly what modifications were or were not made. My understanding is that we did not significantly change the protocols as we have in years previous.

Ms. Sylvia Jones: Would it not have been prudent on your part to review previous years' protocols before signing off on this year's, following up into, this was your first year, officially, as the chief of staff?

Mr. Tim Shortill: I would accept that in this case, that probably would have helped me, absolutely.

Ms. Sylvia Jones: Okay.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: Yes, I just want to come back to Daniel Malik and what he was assigned to do on budget day. On the actual budget day, what were Daniel Malik's responsibilities?

Mr. Tim Shortill: I can't speak to his responsibilities for the entire day. I can't recollect that information.

Mr. Norm Miller: But he was the person who was supposed to go to the third party and opposition lock-ups to—

Mr. Tim Shortill: Yes. I'm not sure if he was assigned to one particular caucus or the other, just given the proximity of their rooms together, so I don't want to indicate that he was stationed out in front of both when it should have been one or the other. I'm just not aware.

Mr. Norm Miller: Do you know where he was between 3 and 4 o'clock?

Mr. Tim Shortill: I don't.

Mr. Norm Miller: Because that does seem to be a kind of key time. How long has Daniel been on staff with you?

Mr. Tim Shortill: I've only been there since January, so six months with me, but he has previously worked for the minister.

Mr. Norm Miller: In the written protocol that you authored, did it specifically state that government members were to be released first?

Mr. Tim Shortill: I don't believe it was, but I would stand to be corrected. It's not my recollection that we actually specifically laid out in writing the staging. But like I say, I stand to be corrected in that respect. It's my understanding that traditionally the governing caucus goes first. As I indicated in my statement, I think that's something that we need to review.

Mr. Norm Miller: In Sergeant Cliteur's testimony, he seemed to understand quite clearly that the stakeholders went first, but then it was quite clear to him that the government members were going to be released before the opposition and third party members.

Mr. Tim Shortill: Sure.

Mr. Norm Miller: He was quite definitive about that.

Mr. Tim Shortill: I don't know if that was because that was the written protocol or because that was his understanding of the way it's always occurred. I do submit that I could be mistaken, but I don't believe that was the actual written protocol. But I stand to be corrected.

Mr. Norm Miller: In your memo, you say, "Shortly before 4 p.m." That is, obviously, kind of a vague time—

Mr. Tim Shortill: It is.

Mr. Norm Miller: What time has this been interpreted to mean in previous years?

Mr. Tim Shortill: I can't speak to previous years. And you're right: It is absolutely vague, which I think is a point of failing. It was intended that members arrive at the Legislature around 4 o'clock. The budget speech traditionally does not begin before 4 o'clock, as that's when the markets close. I think it's this vagary that we need to provide some specifics for in future years.

Mr. Norm Miller: You stated in your statement that traditionally the budget is delivered at 4 p.m. and the reason it's delivered at 4 is because of the markets closing and to maintain sensitive information. Yet most of the key elements of the budget were in fact leaked days ahead, and the leaks proved to be correct. Was this a deliberate strategy on the part of your office?

Mr. Tim Shortill: My comments state that the budget is delivered after 4 p.m. That's a point I want to be clear about. I can't speak to your other question.

Mr. Norm Miller: You can't speak to it because you don't want to or because you weren't party to any discussions about, "Okay, we're going to release the fact that we're going to freeze civil servant salaries" or—

Mr. Tim Shortill: I'm just simply not prepared to discuss those aspects of the budget.

Mr. Norm Miller: Because it was reported weeks in advance. My father was a Minister of Finance—

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: Yes, sir?

The Chair (Mr. Bas Balkissoon): I have difficulty understanding your line of questioning to do with leaks when we're trying to find out what went wrong on budget day.

Mr. Norm Miller: Okay. It's just that—

Ms. Sylvia Jones: But it is all about security too.

Mr. Norm Miller: That was given as the reason—

The Chair (Mr. Bas Balkissoon): I would ask that the line of questioning stick to the issue of budget day rather than leaks. I don't see the relevance, unless you can explain it to me.

Mr. Norm Miller: The reason there is budget security is to maintain the security of the budget so that there won't be any leaks prior to the actual address of the budget in the Legislature. In past years—I can recall when my father was Minister of Finance—it was taken fairly seriously. In fact, I think he offered to resign at one point because the printed copies of the budget were—

The Chair (Mr. Bas Balkissoon): I don't think anybody in this room can speak to leaks, because it's rumour that there are leaks. I mean, we have no proof, and it has no relevance to what we're doing today. So if I could ask you to just come back in line with what we're doing today.

Mr. Norm Miller: Thank you, Chair. It seems to me that the chief of staff for the Minister of Finance would probably have some knowledge about whether there was a definite decision to release—

The Chair (Mr. Bas Balkissoon): If there was a definite decision to leak, that's not a leak. So, carry on.

Mr. Norm Miller: Okay. Thank you for your testimony.

Mr. Tim Shortill: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: I just have a couple of questions. You're not clear on Mr. Malik's role. Is Mr. Malik the senior policy adviser to the Minister of Finance?

Mr. Tim Shortill: Yes.

Mr. Michael Prue: Does he report to you or does he report to the Minister of Finance?

Mr. Tim Shortill: As chief of staff, he reports to me. I think ultimately we all report to the minister.

Mr. Michael Prue: All right. Is there a supervisor between you and Mr. Malik, or does he report directly to you?

1450

Mr. Tim Shortill: There is a director of policy, but in this respect and on that day, he reported to me.

Mr. Michael Prue: But ordinarily he has a director of policy. Is it safe for me to assume that Mr. Malik would have taken his instructions from the director of policy?

Mr. Tim Shortill: Not in this regard. It's important to distinguish that, while in our office we have policy

advisers and a director of policy, on budget day, in terms of operations, they're acting as members of the minister's staff, not in their specific roles as policy adviser or MPP liaison or so forth.

Mr. Michael Prue: So he would have reported directly to you, and you are aware of his presence, but you're not aware of the other person, if any, who would have been in front of the Liberal caucus. This is surprising to me, that you would know that Mr. Malik was in one place and not know who was in the other.

Mr. Tim Shortill: I'm aware because it's the subject of today's discussion. In terms of where my other staff were and other ministry staff and the number of people who are involved in the execution of budget day, I simply at this moment cannot recall the specifics of each individual person.

Mr. Michael Prue: Could you find out?

Mr. Tim Shortill: I could certainly endeavour to look.

Mr. Michael Prue: All right. Just a couple of questions, again, I have coming up about the meetings—

The Chair (Mr. Bas Balkissoon): Mr. Prue, because we're getting close to the time, I'm going to allow this as the last question because there are some procedural things I have to deal with.

Mr. Michael Prue: Okay. I'm just curious: You said there was one meeting to acquaint you and your staff, and then there were other meetings. Were these other meetings from other ministries?

Mr. Tim Shortill: I'm not aware that other people would have been at these meetings. That would have been unusual, but I submit that that possibility could have occurred. Having not been at those meetings, I don't know.

Mr. Michael Prue: So you have no idea whether other ministries wanted to be involved or not involved? Other people within the ministry who were not the 20 directly under your control: You don't know who these would have been?

Mr. Tim Shortill: I would find it highly unusual if there were members of other ministries involved in the planning of the day. There may be that I'm unaware of. I would find that unusual, though. But there are any number of people within the ministry, including my office, who have roles and responsibilities in the preparation of the budget and the execution of budget day.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: I'm trying to be quick. How many people work in the ministry who would have involvement in the budget?

Mr. Tim Shortill: You're asking me a question that I simply don't have a detailed answer to.

Mr. Michael Prue: Thank you. That's enough for today.

The Chair (Mr. Bas Balkissoon): Thank you, Mr. Shortill, and thank you for taking the time to be here.

Mr. Tim Shortill: My pleasure.

The Chair (Mr. Bas Balkissoon): Members of committee, I'm advised by the clerk that the way the direction was given to the committee, our next meeting will be

September 15 unless committee requests that the House give us different direction. I'm in the hands of the committee as to which way you want to proceed from here on. Mr. Naqvi.

Mr. Yasir Naqvi: I would like to make a motion at this moment. Pursuant to the subcommittee report and the motion which we all had agreed to in terms of the deputants to hear, I think we've got sufficient information as to what went on, where some of the breakdown and errors took place, especially in light of Mr. Shortill's presentation today. I move that we end the deputations at this time and move on to the writing of the report, because the Speaker did ask us to move expeditiously on this matter.

The Chair (Mr. Bas Balkissoon): Before I accept your motion, just one second.

Okay, I have a motion by Mr. Naqvi, but I want to just make the committee aware that I still have on my list one more deputant.

Interjections: Exactly.

The Chair (Mr. Bas Balkissoon): So it's up to the committee to give me direction. Is the committee in agreement to hear from Mr. Till?

Interjections: Absolutely.

The Chair (Mr. Bas Balkissoon): Did I hear a no?

Mr. Yasir Naqvi: Chair, I don't recall any agreement. I think some members had asked that certain members be brought forward. The agreement was, there's a subcommittee report where deputants are listed, and there was a motion which had listed a few deputants. There were two members from the PC party, one member from the NDP, the two inspectors from the OPP and Mr. Shortill. We have gone through them. I think we have sufficient information now to move and deliberate and start writing the report.

The Chair (Mr. Bas Balkissoon): Let me just consult with the notes from Hansard.

Committee, I did not take a vote on Mr. Till, and there was a request for Mr. Till to appear. There were no objections on anyone's part, so under the proceedings that took place, the clerk invited Mr. Till here as a deputant. I'm still in the hands of committee.

Mr. Till is listed. I think out of due respect, he was invited and is on the deputant list because nobody objected. I would have to accept that he's here as a deputant unless I have directions from the committee.

I have a motion not to hear from Mr. Till, and I have Mr. Till on the list, so I'm in your hands.

Mr. Michael Prue: I wish to make an argument about why the motion should be rejected.

Mr. Norm Miller: Yes. Chair, I simply say that a lot of the testimony today was quite vague. Mr. Shortill, in response to many of the questions, simply said he didn't know. He didn't know and he couldn't answer, and he was quite vague.

We'd already agreed that Mr. Till, especially based on the testimony of Sergeant Cliteur, was one of the key

people in charge, and the committee needs to hear from him. We would also like to hear from Daniel Malik, who is the person who was supposed to be at the opposition/third party—

The Chair (Mr. Bas Balkissoon): That is a new request, but I want to deal with the one that's in front of us.

Mr. Norm Miller: I'm putting that request on the record to demonstrate that we are by no means done the fact-finding part of this committee.

The Chair (Mr. Bas Balkissoon): I can't take your request yet. I want to deal with what's in front of me.

Mr. Prue, you wanted to comment on this motion?

Mr. Michael Prue: Yes, I wish to speak on this motion. The Speaker and the Legislature instructed this committee to do all things necessary to determine what happened on that day. It seems to me that Mr. Till's name has been mentioned by every single witness as being key and instrumental to what happened that day and that he was the final arbiter of what time people could be released. For the government member to sit there and to say that Mr. Till ought not to be heard is tantamount to trying to shut down the work of this committee. We have an obligation given to us by the Speaker to come to a rational conclusion as to what happened. Mr. Till is instrumental to that. I find this offensive.

I also find it offensive because we have asked for documents which have been requested and which have not arrived here yet. To simply shut it down and to go to the report-writing without those two documents, without the evidence of Mr. Till—and I would agree with my friend: When the time comes, I think Mr. Malik should be called here as well for the part that he played, although it may be minor. But Mr. Till is major to this issue, and I cannot understand, in my wildest imagination, how Mr. Naqvi thinks he can get away with this.

The Chair (Mr. Bas Balkissoon): Ms. Jones?

Ms. Sylvia Jones: On the same motion, Chair, I've already raised today my concerns with proceeding without the emails and without the phone records to back up what the OPP officer has told us thus far. We are getting cross-information that doesn't match when we speak to the chief of staff and the retired OPP officer, and I think it is incumbent on us as committee members to have Mr. Till appear before the committee, and ultimately, Mr. Malik, to ensure that we have the most accurate information to do what, quite frankly, the Speaker has asked us to do. We were pledged with a very specific request from the Speaker and we have a responsibility to ensure that that is done with as much and as complete information as possible.

The Chair (Mr. Bas Balkissoon): The time of 3 o'clock has arrived, so I have no choice, but we are back here on September 15 to debate the motion.

I adjourn this meeting. Mr. Till is still a deputant on the list.

The committee adjourned at 1500.

CONTENTS

Wednesday 2 June 2010

Members' privileges	M-127
Mr. Daryl Knox	M-127
Mr. Tim Shortill	M-131

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Substitutions / Membres remplaçants

Mr. Jeff Leal (Peterborough L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Peter Sibenik, procedural clerk,
Journals and Procedural Research Branch

20N
20
20



M-8

M-8

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 15 September 2010

Journal des débats (Hansard)

Mercredi 15 septembre 2010

Standing Committee on the Legislative Assembly

Members' privileges

Comité permanent de l'Assemblée législative

Privilèges des députés

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 15 September 2010

Mercredi 15 septembre 2010

The committee met at 1304 in room 228.

MEMBERS' PRIVILEGES

The Chair (Mr. Bas Balkissoon): We'll call to order the meeting of the Standing Committee on the Legislative Assembly.

Item one on our agenda is a draft committee report pursuant to standing order 111(b). Does everybody have a copy? Do we all understand the changes? Do we accept it? Can I take a vote?

Mr. Norm Miller: Just one question on that: The motion from the Speaker doesn't take precedence over that, is that it?

The Chair (Mr. Bas Balkissoon): No, this is business we have to get done.

Mr. Norm Miller: Because it's in the standing orders. Is that right?

The Chair (Mr. Bas Balkissoon): Yes, that's right.

Mr. Norm Miller: Okay.

The Chair (Mr. Bas Balkissoon): All in favour of the draft report? Carried.

Shall I report to the assembly on this draft report, because it has to go back?

Okay, carried. So that's done.

We'll move to item two. Item two is a matter that was before the committee before we recessed for the summer. At our last meeting, on June 2, there was a motion by Mr. Naqvi that deputations to the committee end with the June 2, 2010, presentation of Mr. Shortill, and that the committee move to report writing. I have that motion on the floor, and I'm ready to take the vote.

Mr. Michael Prue: I wish to speak to the motion.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: I've thought about this all summer; I've given it a great deal of thought. With the greatest respect, I don't think that is what this committee should be doing. We had a ruling by the Speaker and an instruction from the Speaker that this should be investigated. He invited Mr. Miller to make a motion to send it to this standing committee in order that the ruling of the Speaker could be brought to the fullness of debate and inquiry. At this point we are at a stage, in my view, that there is likely only one, or possibly two, witnesses left to hear, one being Mr. Till, who is called today, and possibly a second one, who was identified throughout the

course of the last day as Dan—I don't know the last name.

There was also a request by me to have cellphone records for the day brought forward so that we could see the times at which the phone calls were made, or what phone calls were going back and forth between those parties, which has not been forthcoming, at least not over the course of the summer. It may be here today or it may never be here, but that request was made as well.

If the committee proceeds and votes on this motion, I think we are doing a disservice to the Speaker, who has ordered that we do a full inquiry into what went on, but also to the House, because the House voted unanimously on Mr. Miller's motion, as I remember, to send it here with the instruction that we were to find out everything we possibly could of what went on that day and, in the words of the government House leader, to make sure it "does not happen again."

By passing this motion, if the motion is passed, this committee will have both usurped the function of the House and gone against the express written and oral instructions of the Speaker. If the government members choose to vote for this motion, I will have no option but to leave the committee. I will tell you that. It's not a threat, but I do not believe I can sit here in all conscience to carry out the will of the House and what the Speaker has instructed us to do by simply saying we're not going to do it, because that's what this motion says. We're going to be prevented from doing it.

1310

I think it's very unparliamentary, and I'm hoping that over the summer, the members opposite, especially, had an opportunity to reflect on this and do not do something that, in my view, is completely unparliamentary, contrary to the Legislature and contrary to the instructions of the Speaker. As I've said, I will not remain in the room should this motion pass.

The Chair (Mr. Bas Balkissoon): Further debate?

Mr. Norm Miller: If I may, from the perspective of the opposition, we've had quite a few people speak before the committee. But I do agree with Mr. Prue that we were given instructions by the Speaker and we're not quite finished our business. We think we're awfully close to being done; there may be one other person to come before the committee, but we don't have a big, long list of other people we wish to call.

As he pointed out, he has requested phone records and there's at least one person, being Mr. Till, to present to

the committee. I think the committee should be allowed to do its work, especially in light of the fact that it's a direction from the Speaker of the House. I certainly think that, from the government's perspective, they may want to think about it.

I don't think Mr. Prue is making idle threats. He's taking this matter seriously, and I'm sure he will be taking it up in the Legislature if you decide to end prematurely. As I say, I would only say to the government members that we think we're awfully close to being done listening to people speak. I think you'd be creating more problems for yourselves and the government by not completing the work as we've been instructed by the Speaker.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Naqvi.

Mr. Yasir Naqvi: I just want to make one observation: I think we all want to ensure that we make the appropriate recommendations to the Speaker, as we were directed.

I think we've heard, per our agreement, from all relevant deputants in this matter. I think Mr. Shorthill's testimony, which was cross-examined as well by honourable members, highlighted some of the miscommunication that took place by which the errors or the delay that took place that day occurred. I think it's important that we work now to ensure that those types of miscommunications do not take place in the future.

I think we also know, in the research that has been done through the research staff, that the briefings or lock-ups around the budget are a courtesy that is granted by the Minister of Finance—and it's an important tradition—to ensure that all members have sufficient information as to the budget document until it's tabled in the House. Obviously, we want to continue that tradition, but we also want to make sure that any shortcomings or miscommunications that may have happened do not occur again.

This is the first time something like that happened in the seven years since this government has been in office, so it's not something that is a regular occurrence. It is simply a fact that there were some miscommunications.

I think we are at a good place, in terms of knowing the facts, to now ensure that we can start drafting the report and putting some concrete recommendations to the Speaker and to the assembly, so we can enhance and improve the protocol for next time so that something like that does not occur again.

The Chair (Mr. Bas Balkissoon): Further debate?

Ms. Sylvia Jones: Actually, it's a question: Will we be receiving the cellphone records prior to beginning the report-writing phase?

The Clerk of the Committee (Ms. Tonia Grannum): I don't really know. I've put the request forward. I followed up over the summer with emails and phone calls to the deputy minister's office, and I haven't received a response.

Ms. Sylvia Jones: When you say you haven't received a response: no verbal, no written—

The Clerk of the Committee (Ms. Tonia Grannum): No verbal. I've left a phone message, spoken to the deputy minister's assistant, who said she'd pass on the message. I didn't receive a phone call. I couriered; I sent by messenger; I emailed the letter. I even sent by email a copy of the Hansard to show the concern that members had that there was no response. I have received nothing to date.

Ms. Sylvia Jones: Chair, it sounds like the clerk has done a very thorough job of first transferring our request initially and following up to ensure that it was received. I have a lot of concerns that this standing committee of the Legislative Assembly is essentially being ignored. I don't think there's another word for it when you talk about emails, messages, messengers and phone calls by staff of the ministry.

Perhaps you could give me some direction in terms of what our next steps are. There was very clearly a motion brought forward in June from this committee requesting those cellphone records, because I think ultimately they become part of completing the picture of what exactly happened on that budget day and during the lockup. What are our next steps, in terms of repercussions, if we are being ignored? And it has a direct bearing on how I respond to the motion brought forward by Mr. Naqvi.

The Chair (Mr. Bas Balkissoon): Ms. Jones, the only advice I could give is, we've made the request. It hasn't come. When we write our report back to the assembly we will indicate that we made the request and it wasn't responded to.

Unfortunately, I have a motion in front of me that has been moved and I am obligated to take the vote unless the mover of the motion withdraws it.

Ms. Sylvia Jones: As it stands, based on the information about the lack of response to our requests as a committee, I cannot support the motion brought forward. I would hope that the mover would withdraw or modify so that we can get the complete information before we get to the report-writing stage.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Prue.

Mr. Michael Prue: If I could, to go back again: I listened to Mr. Naqvi. I'm trying not to be angry—I'm trying to be very rational—but it seems to me that the parliamentary privilege enjoyed by all of us in this room is contingent upon hearing the information, and all of the information. Mr. Till is absolutely key. He was mentioned by at least two or three of the people who have so far given us information as having a key role in being in charge. You've called him in—I understand that he is here today—and for some reason members opposite, or at least one member opposite, do not want to hear what he has to say. For some reason unbeknownst to me, at least one member opposite does not want to see the phone records. Unbeknownst to me, at least one member opposite does not want to hear what Dan, whoever Dan is, who was also mentioned as being a participant on that day, has to say.

I am unaware, in any type of hearing like this, which hinges on the quasi-judicial, of any case where a fact-finder, a finder of fact, does not try to find out every piece of information that is germane or where a fact-finder would say, "I don't want to hear any more information," save and except in those very rare cases when it is obvious to all that the necessary facts are in. I am not sure that they are all in. I am particularly disturbed because Mr. Till played such a key role; he was not a bit player on that day. I am particularly disturbed because what will back up the actual sequence and timing of events is the cellphone records themselves.

And here it is; somebody's saying, "I've heard enough. I don't want to hear any more. I just want to write a report. I don't want to hear all of the facts," because that's in fact what's being said. I don't want to write a report not knowing those facts. I don't think I'm doing any justice to the Speaker, to the Legislature or to my role as a parliamentarian. I would hope the others opposite think the same thing.

You have to try to put yourselves into the shoes of ordinary Ontarians, some of whom didn't like what happened that day. This is not just inside baseball; it's not just what affected us. It affected a long parliamentary tradition, where parliamentarians were not allowed the privilege of being in their seat when the Parliament is in session. That's what this is about.

1320

I am somewhat flabbergasted at the motion and I'm equally flabbergasted that the Ministry of Finance has stonewalled the clerk's repeated, repeated request for information that could be printed on a piece of paper. What is being hidden here? That's the question. What are people attempting to hide? And I'm looking over here at you guys, too. What is it that is wanting to be hidden? What is it? You're hiding something, and I don't know why. Whatever it is, I don't like it, and if this motion passes, as I said, I will not participate further. I will not participate in the writing of the report, and I guess you would leave me no option but to go upstairs and file a motion of privilege. If that's what you want, that's what I'll do.

The Chair (Mr. Bas Balkissoon): Further debate?

Mr. Norm Miller: Just as I stated before, from our perspective, other than getting these requests to do with phone records fulfilled, we think we're pretty much done with presenters. We've got one or two, so we think we're very close to being finished with people presenting to the committee. It seems that the government or Mr. Naqvi, by putting this motion forward and if it's supported, is trying to shortchange and end the committee business before it's really heard all the facts.

As I say, from our perspective, we think we're pretty much near the end, so I'd ask them to rescind or remove the motion. Otherwise, we will support Mr. Prue and we won't be participating further in the committee.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, I have a motion in front of me, that deputations to the committee end with the June 2, 2010,

presentation of Mr. Shortill, and that the committee move to report writing. All in favour? Against? That motion carries.

Mr. Michael Prue: Madam Clerk, I trust that the record will show that I left the room. Thank you.

Ms. Sylvia Jones: Enjoy your report.

The Chair (Mr. Bas Balkissoon): I'm in the hands of the committee now. The next stage is report writing. Would you like to give the research officer directions to put that report together today or would you like to meet another day to do that?

Mr. Yasir Naqvi: I have certain recommendations I would like to see in the report that I wanted to highlight for the researcher.

One of the things that research always has to do is capture the testimony that was presented. I think what was most important was Mr. Shortill's testimony under cross-examination in terms of the miscommunications he highlighted where, perhaps, the problem arose which we are dealing with. Through his testimony, there were three recommendations that come to mind that I think will be important to make to the Legislature. One is that in the future, we let the opposition go first to the House as opposed to the government members. The other is that we double the number of staff on doors, especially at the opposition lock-up, so that there is no—sorry, am I going too fast?

The Chair (Mr. Bas Balkissoon): He's writing, so go slower.

Mr. Yasir Naqvi: Second is to perhaps double the number of staff at lock-up, especially at opposition lock-up, so that there is no miscommunication and we're not just relying on one individual.

The Chair (Mr. Bas Balkissoon): I think you should clarify that, where you're saying "opposition"—just to make sure we understand that it's the opposition and the third party.

Mr. Yasir Naqvi: Opposition and third party, yes.

The Chair (Mr. Bas Balkissoon): Just to make sure.

Mr. Yasir Naqvi: And I think one of the recommendations I recall Mr. Shortill suggested was perhaps the use of closed-circuit televisions, which could ensure that there is no confusion in the future if something like that occurs again. So perhaps using of more closed-circuit television to ensure that there's a smooth flow of individuals back to the Legislature.

Those are three that come to mind. I'm sure if one goes through Hansard, there may be some other ideas that research staff might want to propose to us for consideration.

The Chair (Mr. Bas Balkissoon): Any other direction? Do you have any requests?

Mr. Mario Sergio: Chair, just for clarification from our member, are we doing anything with the ministry staff? Are we just asking to double the presence of staff of the two other parties, or are we doing anything with respect to our own ministry staff as well? Are we increasing our own ministry staff, so there is no possible miscommunication by having more staff?

Mr. Yasir Naqvi: I think we just want to make sure there are more clear lines of communication—

Mr. Mario Sergio: From the ministry as well?

Mr. Yasir Naqvi: —from the ministry, because the whole mechanism that day is run by the ministry. It is a courtesy offered by the Ministry of Finance.

Mr. Mario Sergio: Thanks.

The Chair (Mr. Bas Balkissoon): Any further comments or directions?

Mr. Sibenik, how long do you think you need to do this?

Mr. Peter Sibenik: Three weeks.

The Chair (Mr. Bas Balkissoon): What does that take us to? October 6? Okay. The research officer will have his draft report and we will schedule a committee meeting for October 6.

Do you have a question?

Mr. Peter Sibenik: I've got a question for the committee. I take it that in the early part of the report you want some background information as to what happened—how we got to this point—to set up the recommendations. Is that correct?

Mr. Yasir Naqvi: Yes, and I think the Speaker's ruling is probably sufficient in terms of giving you some of the context on that.

Mr. Peter Sibenik: Right. Are there any other findings that the committee wants in this particular report, or just the background information that was in the Speaker's ruling, plus the recommendations? That will be the sum total of the report. Is that correct?

The Chair (Mr. Bas Balkissoon): What about the deputations?

Mr. Yasir Naqvi: Maybe a summary of the deputations.

Mr. Peter Sibenik: Should there be any reference in this particular report about how the committee is deciding on the matter that is before it? There has been a ruling by the Speaker—there has been a prima facie case of breach of privilege—so the House adopted a motion to refer that matter to the committee. In a sense, it's in the hands of the House, delegated to the committee, to make a final determination as to whether or not there has been a breach of the privileges of members. Should the draft report, at this stage, make any indication one way or the other about that particular issue?

Mr. Yasir Naqvi: From my point of view, and again recalling the evidence that was presented to us, there was a delay, as was found by the Speaker, in terms of a prima facie basis. I think it's clear from the report that it was not intentional in nature, that there was some miscommunication that took place. We had the chief of staff taking clear responsibility for that. So from our perspective, I think there has not been a breach of privilege in that respect. Regardless, we do know that there was a delay that took place, and we want to make sure we rectify that and make recommendations in that regard for the future.

Mr. Peter Sibenik: Thank you.

The Chair (Mr. Bas Balkissoon): Anybody else?

Our next meeting will be on October 6. The clerk will send out notice. We're adjourned.

The committee adjourned at 1327.

CONTENTS

Wednesday 15 September 2010

Members' privileges.....	M-147
--------------------------	-------

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Peter Sibenik, procedural clerk,
Journals and Procedural Research Branch



M-9

M-9

ISSN 1180-436X

**Legislative Assembly
of Ontario**

Second Session, 39th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 39^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 17 November 2010

**Journal
des débats
(Hansard)**

Mercredi 17 novembre 2010

**Standing Committee on
the Legislative Assembly**

Legislative reviews

**Comité permanent de
l'Assemblée législative**

Examens législatifs

Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 17 November 2010

Mercredi 17 novembre 2010

The committee met at 1304 in room 228.

LEGISLATIVE REVIEWS

The Chair (Mr. Bas Balkissoon): We'll call the meeting to order of the Standing Committee on the Legislative Assembly. We have in front of us a referral from the Speaker: "Ontario statutory requirements that mandate future reviews by legislative committees."

As committee has requested, we have the Speaker and the Clerk of the Legislative Assembly. Welcome, and thanks for being here. I don't know if you have any opening remarks before we get into questions from the committee.

The Speaker (Hon. Steve Peters): Thanks, Mr. Chair. I will begin the presentation, and then I will turn it over to the Clerk for her part of the presentation. Thank you very much for the opportunity to appear before the committee today.

Just to refresh the committee's memory on the issue, I thought it would be helpful to provide some background and my reasoning for making the referral to the committee.

You will recall that on April 19 of this year, I delivered a ruling in response to a point of privilege raised by the member for Whitby—Oshawa. The thrust of the member's argument was a provision in the Local Health System Integration Act, 2006, requiring a comprehensive review of the act within three to four years after its passage. The act further provided that a committee of the Legislature should conduct a review and report its findings to the assembly no later than one year after the start of the review.

The deadline for the commencement of the review was to be March 28, 2010. This deadline passed without the matter being referred to a committee, and thus put the House in a position of non-compliance with the statute. This is essentially the situation that the member for Whitby—Oshawa brought to the attention of the Speaker on March 30.

While I did not find that in this instance a *prima facie* case of privilege existed, I did express some serious concern with the state of affairs that the House found itself in.

I also noted in my ruling that this is not the only instance of a statutorily required parliamentary follow-up

measure, nor is it the first instance of non-compliance by the House.

I have to admit I find it somewhat puzzling that such provisions are included in legislation at all. Indeed, using the LHIN legislation as an example, the House has the ability at any time to instruct one of its committees to conduct such a review.

However, I'm not naive about or unacquainted with the reasons for including these kinds of provisions. In some cases, it may be a show of good faith on the part of the government, a kind of guarantee that they will undertake some follow-up action to address the concerns that may have been raised with the legislation at committee. In others, it might be the result of pressure by the opposition to provide some reassurances that there will be an opportunity to assess the act or any component of it.

1310

While I have some issues with the wisdom of inserting parliamentary review provisions in legislation, I am resigned to the fact that they will likely continue. I also recognize that this committee may not feel that it's within its scope to insist that such provisions be prohibited.

However, in the case of the Local Health System Integration Act, 2006, the House did find itself in a position of being in violation of a statutory requirement. Furthermore, this is not the first time it has happened. As I referenced in my April ruling, the statutorily required review of a report of the Ontario Commodity Futures Act advisory committee has, to this day, gone unfulfilled.

Such statutory non-compliance could give rise to exactly the kind of complaint raised by the member from Whitby—Oshawa last spring. This is my primary concern on behalf of all members. I believe it is at least poor practice for the House to be out of step with a statute.

My reasons for making this referral to committee are really twofold. First, I would ask the committee to consider among its recommendations one that cautions against statutory provisions that concern House proceedings except in legislation that is directly related to it, such as the Legislative Assembly Act. Failing that, it would seem to me that it would make sense that, at the very least, when such a provision is determined to be absolutely necessary, the Clerk be consulted on its wording so that all of the procedural implications are clearly understood.

Secondly, I would request that the committee give some consideration to recommending an amendment to

the standing orders that provides for a set of procedures for responding to such provisions. For example, consideration might be given to the automatic inclusion on the orders and notices paper of statutory orders that prompt the House to respond in a timely fashion. Alternatively, it might make some sense to have a standing order requirement for the government to place a motion on the order paper with a certain time frame of the provision required by the statute or to authorize the Speaker to give notice of such an order to ensure its consideration by the House.

Your deliberations may well result in the development of other solutions to this problem. Mr. Chair, whatever you ultimately determine, I believe it is a concern that is worthy of serious consideration. As I noted in my letter to you, Mr. Chair, the Clerk and her procedural colleagues are willing and able to provide you with whatever assistance you may require as you consider this issue.

Thank you for the invitation and the opportunity to appear before you today. I would now like to turn it over to the Clerk.

The Clerk of the Assembly (Ms. Deborah Deller): Thank you. I'm just going to go into a little bit more detail about some of those provisions that occur in some of the legislation and some of the problems we've had in the areas where there has been non-compliance.

What I'd like to stress at the outset, though, is that we're not addressing here the legislation relating to LHINs. That is but one example of a situation where you've got a provision in an act that tries to require some future review by a committee or somehow by an arm of Parliament.

There is no prohibition against these kinds of provisions being included in acts. It's perfectly within the authority of the House to include such a provision in a bill and pass it into law if it chooses. The House has an opportunity to pronounce itself on that provision during committee or in the House during debate.

There are lots of examples of these kinds of provisions in legislation. They're not new, although I would say they are relatively recent, and they are not a phenomenon of this current Parliament. These kinds of provisions have been included in legislation in previous Parliaments as well, and in previous Parliaments, on occasion, the House has found itself in non-compliance. So that's the starting point: This isn't something that has not occurred before.

If you review the chart that you've been given, you'll note that the assembly has not consistently complied with some of the provisions in the act. For example, if you look at page 5, you'll notice—the Speaker mentioned the Commodity Futures Act. In that act, there's a provision that a select or standing committee of the Legislative Assembly be appointed to review or hear the opinions of interested persons and make recommendations on amendments to the act. The session prorogued before the committee could undertake the review, and the House authorization for such a review has, to this day, not occurred.

On page 6, the Employee Share Ownership Plan Act makes some provisions for committee reviews. A com-

mittee did not conduct a review within the time frame that was set out in the act in section 27.

The Employment Equity Act, 1993: No committee conducted a review during the time frame that was set out in the provision in the act. So once again, the House found itself in non-compliance.

On page 9 is the reference to the local area health network legislation. Then, way down on page 13, in the Securities Act, there is a section in that act, subsection 3.10(3), which says that "after the annual report is laid before the assembly, a standing or select committee of the assembly shall be empowered to review the report...." We have absolutely no record of such a committee review ever taking place, even though it is required by that legislation.

In addition, there are some cases where the House hasn't complied because it simply can't. The best example of that is in the Members' Integrity Act. If you take a look at page 10, you'll note that in that act, there's some provisions for a response from the House when the Integrity Commissioner tables a report that finds a member in violation of the act. There is a requirement that the House respond within 30 days of that report being tabled. In some instances, because of the timing of the tabling of the report, it has been impossible for the House to comply with the legislation. For example, if the Integrity Commissioner tables such a report on the last or second-last day of a sitting, then the House may adjourn for the next two months and the 30-day time period has lapsed. Through no fault of the House, it has not been able to comply.

That legislation could very well have been written in a different way, and that may have allowed the House to at least have some ability to comply. Whether they chose to do so or not would be up to the House.

So there are those instances, too, where you have legislation which, because of the way it's written, really prevents the House, even with the best intentions, from complying with the provision.

This is the inconsistency or failure to comply with provisions in legislation that is the source of the Speaker's concern and the reason for his reference to this committee. As the Speaker mentioned, there are a number of ways the committee might address this. The most competent option, I guess, is to consider standing order changes that might help to ensure some level of compliance when these provisions are included in the act.

I have to say that both the Speaker and I have talked about this at length, and, really, our preference is that these kinds of provisions not be included in legislation at all because it does bind future Houses in a way that might not be convenient, I guess, is the word I'm looking for, for future Houses to address. The House has the ability, in any case, to refer a review of legislation or a part of legislation to committee without that review being provided for in legislation.

However, as the Speaker also mentioned, that may not be something this committee would want to recommend. That being the case, there are some potential standing

order changes or amendments that you might want to consider. One is that legislative drafters identify those sections in the bills where there are such provisions and advise the Office of the Clerk or a standing committee—maybe the committee that is considering the bill at clause-by-clause—when they occur, prior to the bills being enacted. Standing order 139 already lists a number of roles and responsibilities for legislative counsel with respect to its relationship to the House and its committees. There could easily be an additional section in that standing order that also requires legislative counsel to identify when these kinds of provisions occur prior to enactment, or even at the drafting stage, so that there can be some input from a procedural office that would ensure that things like those measures in the integrity act wouldn't be written the way they are so that it allows some flexibility for the House in actually complying with the provision of the act.

1320

It would, in that case, provide the opportunity for it to be reviewed for procedural soundness and it would at least address the non-compliance due to a provision that the House is just unable to comply with.

The second thing that the committee might consider is some kind of a mechanism put in place to ensure that there is sufficient advance notice to the House and/or committee that such a provision exists and that, further, provides the Speaker with an ability to precipitate the review itself, or at least to compel some action to be taken when it's required by statute. Really, this is at the other end.

On the one hand, it might be wise for the Clerk's office, the Speaker and the standing committee of the Legislature to be notified at the drafting stage if such a provision is to be included in a piece of legislation so that we can ensure that it meshes with the procedures of the House. But on the other end, it might also be wise to have some kind of a provision whereby the House itself has a trigger, something that reminds them that the provision exists and that the deadline date for complying with the provision is looming.

The Speaker has already mentioned some possibilities with respect to that. Perhaps such provisions could be listed in the Orders and Notices paper. There could very well be a section in the Orders and Notices paper that lists those kinds of statutory provisions with the deadline date that must be met so that they can be complied with. That way, the House is fully aware of and has time to address those measures that may appear in legislation.

The standing orders could further require that a motion dealing with the provision must appear on the Orders and Notices paper in a certain time frame: maybe six months before the deadline, maybe two weeks before the deadline—whatever the committee thinks is appropriate.

We have lots of instances where there are required notice provisions: Private members' business is one that comes to mind. You, as private members, are required to give two weeks' notice of a bill or resolution that you intend to have debated on a Thursday afternoon. That

same kind of notice provision could be included with respect to these kinds of reviews that are statutorily required in legislation.

Having that kind of a standing order would allow the Speaker to enforce it. The current situation really is that even if it's brought to the Speaker's attention that the House is in non-compliance with a statute, the Speaker has little authority to address the situation or to make it happen.

However you decide is best to deal with the concerns that the Speaker and I have raised today, as the Speaker mentioned, we are at your disposal. If you think the route to go is to consider standing order changes, certainly the Clerk's office staff can draft some options for you to take a look at.

I think it's important for the committee to be aware that the kinds of non-compliance with statutory provisions that we're currently faced with risk offending parliamentary privilege, but whether or not it does offend parliamentary privilege, I don't think anyone in this room, or probably the House, believes that it's a good idea for the House to be in a non-compliance situation with a statute.

So I would hope that you would spend some time considering what you might do to address the concerns, and I'm happy to answer questions.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: My question is to the Speaker. Speaker Peters, while I appreciate that you have referred this decision to the Legislative Assembly committee, I am still very concerned that we are a committee that is at the whim of the majority, again. So the recommendations that are going to come forward—and I think you've raised some excellent ones related to notice in the standing orders; to me that seems to make the most sense—we will be challenged, as a government legislative committee, to get those recommendations brought forward, I believe. I shouldn't prejudice my fellow members.

When you talk about the provisions that are in some of the existing legislation that provide some reassurances of the intent of the legislation, whether we're talking about the LHINs or the Members' Integrity Act, they are put in very clearly for allowing people the right to review, to see if the existing legislation does do what was intended when they passed it. If we are in a situation where it is put in, but we cannot review it or it sits unreviewed, we're in the same situation all over again. If we cannot come to a consensus in this committee, we're no further ahead.

I guess I'm looking for your guidance on where we go from there.

The Speaker (Hon. Steve Peters): I'm very happy to jump in on this one, because this is a committee, quite honestly, that I wish we could utilize more to assist the Clerk and the Speaker in a non-partisan manner. Whether it was something that I have previously referred to you or this issue, there are a number of other issues that I would love to see this committee take a hard look at. Take a look at petitions, as an example; the increasing use of

regulations where something isn't included in the bill, but it's left to the regs to decide.

I'll be very honest, as someone going out this door: Until we around this table, collectively, of all stripes, are prepared to take this place back to who it belongs to, 107 members, it doesn't belong to somebody sitting in a corner office—and I mean a corner office, whether it's the government or the two opposition parties. Until we collectively take this place back, we are always going to be at the whim of the control of the centre. I'm sure I'll probably pay some price for some of the Hansard, but I'm quite comfortable, as somebody going out the door in this place, to say some of these things.

My job as Speaker is to ensure that the minority has the right to be heard in a majority, and I am certainly conscious of that in the chamber. But I think we need to decide what is best for us as members and how do we best do our job. Part of the reason I'm here is because, as the Clerk pointed out, there is little authority to address issues like this by the Speaker, and when the Speaker is asked to address these issues, I'm doing that on behalf of all of us. I'm not doing it on behalf of the government side or the opposition side; my job is to ensure that the rights and the privileges that each and every one of us enjoy as elected members, whether we're in government or not, are enforced. When I find myself in a position like this, where I can't deal with that, I have no choice but to refer it to the committee.

I honestly hope, to the honourable member from Dufferin-Caledon, that you will take a hard look at this and look at it in a manner that is in the best interests of all members. As the Clerk pointed out, I think it's important that—this isn't something that has just suddenly happened with this government. There are examples that have been cited here that go back 25 years, so it's all governments that have added these provisions. But I'll be honest: I think that this committee could, if you could ever make the recommendation to change the standing orders, to create this as a committee—I'll apologize for maybe going on a little bit—if you want to look at a committee that did an awesome, excellent job, it was the Select Committee on Mental Health. That was a committee where none of you were sitting here around this table being whipped or having notes sent in from behind me here to you. It was a committee that genuinely worked to try to find some consensus and some common ground on an issue that's extremely important. We don't do enough of that around this place. This is a committee that I think could.

Sorry for a bit of a rant there, but I've had the opportunity—I sat four years in opposition, I sat as a minister for four years and I've had the privilege to serve as Speaker, so I've been granted this rare opportunity to have a different perspective on how the House operates. Honestly, to answer your question, I hope that you will take away any of the partisanship and the politics and use this committee for what it is. It's the Standing Committee on the Legislative Assembly. This is a committee that is

of importance to all of us, and it doesn't matter what side of the House we sit on.

1330

Ms. Sylvia Jones: I'll take your compliment, because I was a member of that Select Committee on Mental Health and Addictions, but you have reinforced the issue of, if we cannot come to a consensus here and make some decisions that actually will improve so that we are in compliance—because the reality is, the Legislative Assembly is not in compliance right now. There are outstanding pieces of legislation that we are simply not doing, and collectively—I'll come back to the LHIN legislation because that's the one that initiated all this. This was passed by the current government; a piece of legislation that, by your majority, you passed, and you're not even respecting what's in there.

I'm very concerned that we're going to go through this whole process and have a report come forward that says, "No, it's good. It's been like this for 25 years. We'll just keep plugging along and good luck with it." Where does that leave us? Does that mean that opposition members, as individuals, have to take the Legislative Assembly to the courts? Because that is one of the repercussions, and it seems bizarre to me that we would have to do that when we are actually members of the assembly. I will leave it at that.

The Chair (Mr. Bas Balkissoon): Madam Clerk, you had comments?

The Clerk of the Assembly (Ms. Deborah Deller): Yes, if I may. There was no intent here—and I don't think it's wise to go down the road of blaming in any way this or any other government for these issues of non-compliance, because in some instances, the blame is circumstance.

Ms. Sylvia Jones: But not in this situation.

The Clerk of the Assembly (Ms. Deborah Deller): The agenda of the House may not have allowed for circumstances with respect to—the outside agency, in a certain case, may have changed. There can be all kinds of reasons, as I mentioned, for the non-compliance occurring.

I guess in some ways, even though I've been here as long as I have, I continue to be a little bit naive and hopeful that you can put aside the partisanship and look at what the issue is and then deal specifically with that issue to try and resolve it for future Parliaments, for the future Legislative Assembly, so that you don't find yourself in this kind of a situation again.

The Chair (Mr. Bas Balkissoon): Further questions and comments? Mr. Naqvi.

Mr. Yasir Naqvi: Thank you, Speaker and Clerk, for being here today and making your submissions.

I think it's not wise to speculate as to the outcome of the deliberations of this committee. I am quite confident and hopeful that—this is a very important and serious issue that you have brought to our attention—we will work together in a collaborative fashion and come up with some good ideas and recommendations that will move forward the issue that we are faced with.

I'm far more optimistic as to how we can really work together, because it is an important issue and it gives us, as members of this committee and members of the House, an opportunity to come up with some good ideas. I think that's why one of the things I will be asking for is that we need to really canvass the map out there and see what solutions are out there, and what we can best understand from other practices in other Houses, not only in Canada but maybe in other like jurisdictions as well so that we do sort of look outside the box and come up with some really concrete ideas for the House.

I have to tell you, I had the opportunity two years ago to sit on one such review for PHIPA, the personal health information act, which is referenced. It was a great review. I had a really good time. I was a new member. All three parties worked very collaboratively, and it was a good review. A good report came out and I think the government then pursued some of the changes.

These reviews do have a useful purpose to them and can result in improving the legislation before it.

I understand the point being raised by the Speaker and the Clerk that perhaps putting in a provision requiring reviews is not necessary because standing orders allow for them. However, they do provide, at times, a useful purpose.

I had a question. Both the Speaker and the Clerk talked about the authority already existing. What provision in the standing order rules are we looking at that gives that automatic authority for review of any legislation, if requested?

The Clerk of the Assembly (Ms. Deborah Deller): At any time, a motion can be considered by the House that sends a matter to a committee to review. We've done it on several occasions. It's a motion that's put before the House, that a certain matter be sent to a committee for consideration. It's debated and voted on like any other motion, and then the committee is instructed to go ahead and conduct that review.

Mr. Yasir Naqvi: Forgive my ignorance of the rules completely, but does that motion have to come by one of the recognized parties, or can any member put forward that motion? Does it only have to come when, for example, opposition parties have opposition days so that they can put a motion?

The Clerk of the Assembly (Ms. Deborah Deller): No, opposition days and private members' business are really—when you pass a motion in those scenarios, it's really just an expression of an opinion of the House; it doesn't order the House to do something. A motion to order the House to do something is typically a government motion that is put on the order paper.

Committees consider matters in a number of ways: A bill can be referred to a committee; a committee can consider a matter that arises out of its mandate, as set out in the standing orders; or a committee can consider something that has been referred to it by the House. The way the House does that is by a substantive motion, typically a government motion in the House.

Mr. Yasir Naqvi: Okay.

The Chair (Mr. Bas Balkissoon): Ms. Van Bommel.

Mrs. Maria Van Bommel: I think, pretty much on the same vein that MPP Naqvi has gone—I'm intrigued by the concept of just simply not allowing those kinds of provisions to be put into the legislation. We have all these outstanding items here that we've talked about. There's quite an extensive list here, actually, of things that are still outstanding. Do we have to deal with them first? Do we wipe them off the slate?

Interjection.

Mrs. Maria Van Bommel: I'd like to know what does become of them. Personally, I was kind of surprised to hear Sylvia say what she did. She set a tone I hadn't expected, because I've worked with her. I was surprised at the comment. We've been through the select committee. But I'd like to see this become something that is going to assist all parties in the future. This is not just about one item of legislation and all this stuff.

I am curious to know: If we were to go the route and just simply say, "No more of these kinds of provisions"—and as you said, there are, in the standing orders, the procedures for getting it done anyway if somebody needs it done. What happens to these? Do they just continue to be outstanding?

The Clerk of the Assembly (Ms. Deborah Deller): Yes, because these would have been in place prior to the House determining that it wasn't going to—

Mrs. Maria Van Bommel: So they go into limbo.

The Clerk of the Assembly (Ms. Deborah Deller): Yes, much as they, in some cases, are already.

Mrs. Maria Van Bommel: They already are, aren't they? Yes. The reality is that they are already in limbo. It's true.

The Clerk of the Assembly (Ms. Deborah Deller): The other option is that at any time, you can take a look—the act—

Mrs. Maria Van Bommel: So under the standing orders, we could bring them forward again?

The Clerk of the Assembly (Ms. Deborah Deller): The act with respect to health networks is probably a good example, because in that case, what happened was that the House passed legislation that amended that provision in the act. The other option, of course, is to go back and amend the provisions in the act that have not been complied with.

So there are options open to the House to deal with these.

Mrs. Maria Van Bommel: So it is possible to go to a point where there would be no outstanding—I can imagine what kind of work that would be. But it is possible to then go to a point where we no longer allow for that kind of provision in legislation, and we would deal with those outstanding by going back and—

The Clerk of the Assembly (Ms. Deborah Deller): Yes. It's possible—

Mrs. Maria Van Bommel: —having some kind of omnibus bill that does this.

1340

The Clerk of the Assembly (Ms. Deborah Deller): I'd go back to Mr. Naqvi's point, though, where frequently these provisions are put into legislation in order to trigger the review happening. It is all very well for us to sit here and say that the House has that power anyway to do it without legislative authority, and they do, but I think the reasons that there is a tendency to put them in legislation is so that it reminds the House that they had agreed to have that kind of review within a certain time frame.

Mrs. Maria Van Bommel: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Sergio?

Mr. Mario Sergio: I think the question now is: Where are we going from here?

I can sympathize that we are here because of the point of privilege that has been made by Ms. Elliott on the LHINs issue, but I think both the Clerk and the Speaker have brought to light the type of malaise that has been existing for a long time.

The advice the Speaker is giving us is that it would be beneficial to see something that would be beneficial to all the parties, because today it's one and tomorrow it could be another.

The advice of the Clerk, in taking perhaps a good look at changing the standing orders, is another matter. I think this would warrant a nice, comprehensive review of the standing orders, which govern the House.

I think the Speaker did mention that he's had problems himself as to who has the power. That's why we are here today. The power exists already to refer a particular issue to a committee, but I think it's how we are going to do it and try and eliminate some of the pitfalls that exist and, if you will, maybe—I wouldn't call it abused, but they have been protracting for a long time. Maybe we can find a common way to deal with that, eliminate that and, if you will, bring some more transparency to our own standing orders, because once the standing order is done, it governs everybody. I think it would warrant having a good, comprehensive look. Maybe this committee or others can delve into the standing orders and, at the same time, deal with this particular issue.

I don't feel that we have anything to go on today as to making a particular decision. I have no idea if our speaker on our side has some ideas, but I would take the advice of the Speaker when he says that this matter is important and should be considered further. I think it should be considered much further, in much more detail and in much deeper detail as well.

I appreciate the Clerk and the Speaker being here today. There are people who have been around the chamber for a number of years and have seen a number of issues that would merit being referred to the committee for consideration. I would like to see this one looked into and studied by the committee. I have no idea where else we can get some more information that could assist the committee in making some recommendations and at the same time in looking at the complete standing orders of the House.

The Chair (Mr. Bas Balkissoon): Mr. Prue.

Mr. Michael Prue: A couple of things: Maria, you raised the issue—and I am intrigued by the idea, too, of not putting it in, but this would be a very simple thing for an omnibus bill. You have 12 or 15 acts and you just put them all down. I don't think it would engender a whole lot of debate within the House, and the government would have to bring it forward. Should we come to that conclusion, that's a very simple remedy to deal with all of those outstanding bills that are problematic.

In the future, it may be a good idea to limit—although I would be reluctant to totally limit the authority of the House, I have to state at the outset, without having heard everything, because sometimes you need the trigger—but I would allow the trigger perhaps only once, not onward and onward. Some of the bills say, "Every two years, you shall review." Perhaps once, to make sure that the legislation is right, particularly on a contentious piece.

The second thing, to follow up on what Mario had to say: We have about 12 weeks left of committee time—that would be my best guess—in this Parliament. It might be a little bit longer. I see about three weeks before we break for Christmas. I would be shocked if we come back after Family Day; I think it would be more likely sometime in March, after March break. We will be here maybe till May, maybe not, and that will be this Parliament. That's my reading of the tea leaves. We have about 12 weeks to deal with this and I think we should deal with it now as opposed to not dealing with it now, because whoever comes back in the next Parliament may have diametrically opposed views. We can have much more soft and congenial views because we will impose this on the next Parliament—probably not on this one. Therefore, the recommendation that we make and the recommendation that's carried out in the next 12 or so weeks that we sit will perhaps bind the next Parliament and do them a great service.

I don't see that we're going to do anything that's going to force this government at this time to do anything. In that, I agree with Sylvia. It's very difficult. The government is in place, the government is trying to protect itself at this point, leading up to an election, but a new government will come in. That's our 12 weeks. If we're going to change it, we have to do it now and we have to do it with some dispatch.

Last but not least, I couldn't agree with the Speaker more: It is time to take back this House.

Pierre Trudeau once said that 100 metres away or 100 yards away from Parliament Hill, parliamentarians were nobodies. Remember when he said that? We allow ourselves to become those nobodies when all we do is follow the dictates of our government or opposition or third party House leader.

I have said this before, I'll say it again—and I agree with him: We need to allow our committees and our individual members to vote how they see fit without being whipped on every single vote. This committee or any other ones they sit on: It's always the same. I very seldom see anybody break ranks. I've been here for nine

years. Can you give me a single instance in this committee—because I've not been on it that long—that anybody on that side has broken ranks, anybody there has broken ranks or I have broken ranks with myself? I don't see it, but I think we need to start doing that.

If I can indulge just for a minute, I am the Chair of the regulations and private bills committee, and we have tried to work with the Clerk's department within the confines of what we can do to allow members to bring their private members' bills forward. We hold a subcommittee meeting in which to determine which bills that have been passed for second reading can be brought forward for some discussion at committee so that it can be sent back for third reading. To my chagrin—it is perfectly legal; it's what committees are supposed to do—on every single instance, the parliamentary assistant has said that they will not act without the House leader's approval. I think that's a shame, because those bills have been passed by the House and the proponents of those bills want to see something happen with them. I am given to understand and I know that they cannot be ordered for third reading without the House leader's approval, but they won't even go through the committee process, even though they're ordered there. Even though we've got eight members sitting around who have nothing else to do that day, nothing happens with them because somebody says no.

I think it's time we took back our jobs. I don't want to be that nobody 100 metres from this place. I want to say that we had the opportunity, we took the opportunity, we acted on our own initiative and we said the right things. If it's inconvenient to the House leader at some point, they still have the final authority at third reading to bring the bill forward or not. For us to not do our job because we're told not to is a huge and crying shame.

1350

Having said all of those things, I hope that we use the next 12 weeks wisely and—yes, we use them wisely—that we make the recommendation and that we empower whoever is here next year, whatever government's in power, whichever ones of us are back or not back, whoever's sitting in our place, to be all they can be. To do anything less is to just give up this wonderful institution, which at this point I'm not prepared to do.

The Chair (Mr. Bas Balkissoon): I have a couple more speakers, but the Speaker would like to—

The Speaker (Hon. Steve Peters): I just wanted to say thank you very much on behalf of both the Clerk and I for the opportunity.

Boy, we could refer you other things. You know, I'd love this committee to take a hard look at private members' business. We've all heard stories. We've seen the election literature: "How we're going to enhance the role of the backbencher in this place," and "The backbencher's going to have more authority." Well, take a look, in the 12 weeks, at some of the jurisdictions and how they deal with private members' business so that it's not a whipped vote and you do something good.

Sorry, I can—it may be a little different for me because of the position that I'm in, but I agree with all of you. I think this is a great opportunity to lay some direction out to future governments.

Mr. Mario Sergio: Any recommendations?

The Speaker (Hon. Steve Peters): Do you want that on Hansard? On the record or off the record?

Interjections.

The Chair (Mr. Bas Balkissoon): Mr. Sergio, please let the Chair conduct business.

Before I go to the next three speakers I have on my list, do we need the Speaker and the Clerk to remain, or can we—

Mr. Yasir Naqvi: I have a question.

The Chair (Mr. Bas Balkissoon): You have a question? Okay. Mr. Dickson, do you have a question of the Speaker or the Clerk?

Mr. Joe Dickson: No, I just want to be complimentary towards them. But I do have some questions.

The Clerk of the Assembly (Ms. Deborah Deller): Mr. Chair, we're quite happy to stay.

The Chair (Mr. Bas Balkissoon): You're quite happy to—okay, then I'll go through my list. I just have three.

Mr. Dickson, the floor is yours.

Mr. Joe Dickson: First of all, I think it's an honour to have both the Clerk and the Speaker here. Perhaps with their direction, we can proceed through this a little quicker than normal.

When we talk about outstanding provisions for review and working together, to me, this—and I'm just giving you a broad-brush overview of what I think this is. I haven't adjusted to everything yet, but it appears to be a procedural issue. I guess that's from too many years—you can never have too many years—from 20 or 30 years, probably close to Michael, on school boards, city councils and regional councils. There's just a procedural glitch here that I think could clear up a lot of things, whether we're talking about deadline dates and write-in or Orders and Notices. I've seen it done in the past, and I wonder if the Clerk, with some direction from the Speaker, could put something together that would indicate to us a procedure that, whether it's correspondence or emails, probably through the Clerk's office—and I'm just going back to regional and city days—where there is advance warning of a deadline. It's in print. It goes to the committee Chair, it goes to the committee members. It might be a 90-day notice. It might be a 60-day notice. There's a follow-up, and everything is done in a professional, businesslike manner.

When you see all of those procedures, if you would have the flexibility of reviewing those three levels of government and seeing which procedures work best to keep us out of meetings like today—because I think this is just bureaucracy. It's a simplified trigger. That's all I can call it: It's just a simplified trigger. It makes it all happen.

All of your other points are certainly valid, and I appreciate your comments and input. It means a lot. But I

think, in the broad brush, it's simple. It's procedure, and we need to deal with procedure.

I'm open for any response to that.

The Clerk of the Assembly (Ms. Deborah Deller): I think you're—sorry.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi?

Mr. Joe Dickson: The Speaker was going to—

Mr. Yasir Naqvi: The Clerk.

The Chair (Mr. Bas Balkissoon): Oh, sorry. Go ahead.

The Clerk of the Assembly (Ms. Deborah Deller): I think you're right. It ultimately is a procedural issue. You can debate whether or not these kinds of provisions should or shouldn't appear in legislation. My guess is that they will probably continue to appear in legislation. The issue then is: Is there a procedural way of ensuring that the House somehow responds to those provisions? So you're absolutely right. I think it can be solved with a procedural mechanism; it's just a procedural mechanism that the House is going to have to agree to in some form.

Certainly we can draft out some options with some direction from the committee about which of those options they might like to pursue, and we can do that based on our own experience here and also taking a look at other jurisdictions and other levels of government to see whether or not there's some similar provision elsewhere.

Mr. Joe Dickson: Thank you very much for your help.

The Clerk of the Assembly (Ms. Deborah Deller): In point of fact, there is a kind of a procedural mechanism already in place here on a different kind of issue, and that is, whenever there is a bill that has a provision in it that, say, for example, is intended to raise taxes, legislative counsel is required to inform the Clerk of that provision prior to the bill coming to the assembly. There is already in place a similar kind of provision that allows for that notification, if you like, of a provision's existence.

Mr. Joe Dickson: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi.

Mr. Yasir Naqvi: Clerk, I have one question and maybe a request on things you were talking about. The question being: Is this an issue that has been discussed in your professional circles, when you're talking with other clerks and procedural staff? Is this something that's been highlighted in other jurisdictions as well?

The Clerk of the Assembly (Ms. Deborah Deller): I hesitate to answer that because we'll reveal ourselves as geeks, but: this, among other issues, yes. This is one issue. There are others: the issue that you yourselves have grappled with recently, of regulations and the increasing tendency, not just here but in other jurisdictions, for Parliament to pass legislation that is essentially a framework and much of the detail is left to regulation, preventing future Parliaments from, sometimes, being involved in rules that are put in place. So, yes, I would say that there is some discussion about these kinds of

issues, and this one in particular among clerks across the country.

You'll notice that there was a—I think you have, attached to your material, a survey that was done across Canada about whether or not this kind of issue exists elsewhere. Predominantly it does, but you'll notice, just as an example, if you take a look at Manitoba, there's a kind of oblique editorial comment in that response saying, "Governments have been counselled not to insert matters concerning House management or procedure into legislation, but the trend is otherwise." So there are concerns out there in other jurisdictions.

Mr. Yasir Naqvi: Any academic papers written on this topic? Something you can point us to?

The Clerk of the Assembly (Ms. Deborah Deller): Not that I'm aware of. Certainly Peter could probably dig them out, if they exist.

Mr. Peter Sibenik: There's not much in this. There's some information in some of the procedural textbooks like O'Brien and Bosc. There's a little bit of information that's been referred to on page 17 in the notes; the description dealing with the House of Commons.

What I'll do is I'll provide the committee with the full extract from O'Brien and Bosc, and if there are any other materials, I'll have that ready for the next meeting.

Mr. Yasir Naqvi: And I have some requests of research, so I will come back to that as well, but I think that's a good idea.

My other request was that both the Speaker and the Clerk have raised some solutions in absence of, if the committee decides, "Ban these types of provisions," which, I think I'm hearing, that may not be the way we may all be going. But barring that option, there are a few options that have been outlined. I think it would be helpful if the Clerk's office can help us map them out as to what they may look like and where they fit in in the standing orders, because I think what I'm hearing from you is that what we need is a trigger or tickler mechanism where some alarm can go on, a light can go on and some process may kick in for a particular review that is required by the legislation.

It would be helpful, whenever we meet next, in among our research to have that all mapped out and what it looks like so that we can see those options in front of us.

1400

The Clerk of the Assembly (Ms. Deborah Deller): So in the nature of maybe draft amendments to the standing orders?

Mr. Yasir Naqvi: Yeah, and perhaps an explanation as to how you foresee the system actually working. We need to think it through. We write a lot of things, and they sound perfect on paper. We need to make sure that, in practice, they are able to achieve the purpose we are trying to achieve. So I think a bit of a scenario as to how you foresee things working would be helpful as well.

The Clerk of the Assembly (Ms. Deborah Deller): Absolutely.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: I guess this question would be to the Clerk. Very recently, we had some very substantive changes to the standing orders, but those discussions, those amendments and those recommendations did not come through here. So I guess my first question is: Who made those decisions for the last major changes to the standing orders?

The Clerk of the Assembly (Ms. Deborah Deller): The House did.

Ms. Sylvia Jones: The House leaders, initially, and then it went to the House for sign-off?

The Clerk of the Assembly (Ms. Deborah Deller): Standing order changes are always changes that result from a motion in the House. The motion ends up before the House in a number of ways. Sometimes this committee has generated them itself and made recommendations to the House—this committee or others. Sometimes it can be a unilateral motion put forward by the government itself. Sometimes it can be something that emanates out of House leaders' discussions—any number of ways.

Ms. Sylvia Jones: The last major changes did not actually come out of the Legislative Assembly committee. My question is, if we are able, as a committee, to come to some consensus, it is simply, again, a report that gets tabled in the chamber and then would, ultimately, have to be passed by the majority.

The Clerk of the Assembly (Ms. Deborah Deller): At the end of the day, that's how the House does business.

The Chair (Mr. Bas Balkissoon): Mr. Sergio.

Mr. Mario Sergio: Just a question, Mr. Chairman; maybe two. One on timing: We have maybe three or whatever weeks, and if this committee were to give direction and say "within six months"—I have no idea how much time would be required to look at other jurisdictions and come up with some recommendations for the committee. What kind of span of time are we looking at?

The Clerk of the Assembly (Ms. Deborah Deller): Well, we won't need six months.

Mr. Mario Sergio: More than six months?

The Clerk of the Assembly (Ms. Deborah Deller): No, we wouldn't need six months.

Mr. Mario Sergio: You wouldn't need six months?

The Clerk of the Assembly (Ms. Deborah Deller): No.

Mr. Mario Sergio: Okay.

The Clerk of the Assembly (Ms. Deborah Deller): Certainly, to draft out the kinds of options that we've discussed today will take no time at all. If you give us a couple of weeks, we can do that. In that time, we can also canvass other jurisdictions, come up with whatever academic information might be out there and put together a package for you.

I'm looking at Peter because he's going to be the guy who's doing most of that leg work.

The Chair (Mr. Bas Balkissoon): He's always smiling, so don't worry about him.

The Clerk of the Assembly (Ms. Deborah Deller): I guess something that might be feasible is to have something in your hands before we adjourn for Christmas that you could take a look at over the winter recess. When the House reconvenes again in February—

Mr. Michael Prue: Or March.

The Clerk of the Assembly (Ms. Deborah Deller):—or March, then you've had the information for some time, you've had an ability to go through it, and you're ready to have some discussion on it.

Mr. Mario Sergio: Just one more quick thing. I don't know if it's a question; I'm trying to make it come out as well as I want to say it, Chair.

Following my colleague here, Mr. Dickson, I think we all have that particular background, and the Speaker as well—he has been at the municipal level. Those ideas of timing and giving us more advance notice were orders specifically to the clerk, to the staff. We said, "We want the clerk to report by such and such a date." Those were specific orders and directions by the chair. It could be from the mayor or the council as a whole.

Here, it's a different story because of the political parties, because, if you will, of the political party in power. Unless there are directions from high above to the Clerk or whoever or from the House saying, "Within six months, the Clerk must do this," we will not have what is being suggested here. Unless we address that particular issue and it's carried by the party in power at the present time, unless we direct the Clerk and whoever is responsible to say, "One month prior to this coming due, we want you to bring this to the attention of the legislative committee or the House itself for whatever action the House deems necessary," we will not accomplish that.

It was a different story when we were at the municipal level, because council would direct the clerk and say, "Report to council within such and such a time." We don't have this particular thing here, even though you, Madam Clerk, may say that we already have some power. But if the powers that be say, "No, we don't want to deal with this issue here," well, we're not going to deal with it.

Tell me if I'm wrong. I'm looking for some direction there.

The Speaker (Hon. Steve Peters): I'll do it, because it's a little more political, and the Clerk does have to—

Mr. Mario Sergio: And it's the truth.

The Speaker (Hon. Steve Peters): You're exactly right. Any one of us that sits around this table who came from the municipal level or the school board level, I think that's one of the things that we've all struggled with coming to this place. At least at the municipal level, you'd say it's black, I'd say it's white, you'd find the grey, and you'd get on with it. In this place, we oppose for the sake of opposing or support for the sake of supporting. Not having this ability because we're concerned about getting into cabinet, and if you lock horns with the Premier's office, you're not getting into cabinet, or you're sitting in opposition and hoping that you're

going to be in government, and you don't want to cross horns with the leader, yeah, it's a huge problem.

To Sylvia's point, you could come up with some great options here, but yes, this is going to go to the House leaders. It will go to the government House leader, and if the government House leader puts thumbs down to this, it's not going anywhere, and that's part of the problem with this system.

The Chair (Mr. Bas Balkissoon): I have a couple of questions, just for my understanding.

Madam Clerk, you made an interesting comment about legislation: If it has a cost, legal counsel must indicate something to the Legislative Assembly to that nature or whatever. But I see private members' bills sometimes on the order paper, and I interpret them as having a cost to them, and the bill shouldn't be in front of us for debate. But quite often it's there. How does that happen? Who is the person who is supposed to take responsibility to say that that bill shouldn't be or should be on the order paper for debate?

The Clerk of the Assembly (Ms. Deborah Deller): Okay, well, let me start by saying that just about every bill incurs some kind of cost.

The Chair (Mr. Bas Balkissoon): Okay.

The Clerk of the Assembly (Ms. Deborah Deller): The rule isn't against that. A bill is defined as a money bill if it does one of two things: if it imposes a tax or if it causes a direct—and the key there is “direct”—expenditure from the consolidated revenue fund. Unless it does one of those two things, it is not considered a money bill.

The ultimate decision as to whether something is or is not a money bill rests with the Speaker. At any time, if you as a member believe that a bill has been introduced that imposes a tax or causes an expenditure from consolidated revenue, you can raise that as a point of order.

The Chair (Mr. Bas Balkissoon): But when do you do that? At the time the bill is being debated or when it's introduced?

The Clerk of the Assembly (Ms. Deborah Deller): Once it has been introduced, and you have a copy of it. Once it has been introduced and it appears either on the Internet, or once it's printed.

The Chair (Mr. Bas Balkissoon): So we can raise that issue with the Speaker?

The Clerk of the Assembly (Ms. Deborah Deller): So then you can raise it and say, “I'm looking at this bill”—and it has been done before; there are examples of that that you can see in the record of the House—“and I think it's a money bill.” The Speaker will determine whether it is or is not.

Certainly, we have examples of the Speaker, even in the absence of a point of order being raised, striking a bill from the order paper because it's a money bill.

But cost isn't the issue. It's a very restrictive interpretation. Only those two—

The Chair (Mr. Bas Balkissoon): Now I have a clearer understanding. Okay.

In regard to the issue that's in front of us, I know you gave a couple of suggestions in your opening statement, and one of them would have been a trigger mechanism. It could be six months; it could be one month. I think six months is probably more reasonable, knowing the House schedule and everything else, should the committee decide to go that route.

But do you see, if we adopted that as part of the standing order, that somewhere in the procedure also, it would allow the minister of the day, who's responsible for doing whatever, the opportunity to come back and say, “This is not practical, based on my own ministry's business, and I'm seeking the House's permission to”—

The Clerk of the Assembly (Ms. Deborah Deller): You can write that into such a standing order, and in fact, that sort of provision is found in all kinds of places.

It would be good if that kind of provision was written into the legislation itself when it required this kind of review, not unlike the financial accountability act that we've just dealt with this week, where there was a requirement under that act for the minister to present a financial statement to the House by Monday. But there's a safety mechanism in the same act that allows the Minister of Finance to say, “There are some circumstances that make it impossible for me to make this statement today. I'll make it at a later date.”

The Chair (Mr. Bas Balkissoon): Okay.

The other issue I would raise with regards to the trigger thing, which maybe you need to clarify for me: I can see that if the House is proroguing for elections and because we're going into another session, something is left unfinished. Therefore, if we suggest something, we would have to include, if it was a review of significant government business, that it continue, or the next Parliament take it upon its responsibility to do it. But what would happen if you had proroguing of the House in mid-session just for a throne speech? How do you see those two situations occurring if we did have a trigger mechanism?

I think the whole process that we're here to do is try to close the loop where stuff has fallen on the side.

The Clerk of the Assembly (Ms. Deborah Deller): Once again, you've addressed one of the exact problems that I've tried to raise here. If you do it properly, the provision in the legislation itself should allow the House some flexibility because of its calendar, but if you were writing a standing order that provided some kind of trigger mechanism, it could also be written to allow the House some flexibility. You can talk about sessional days as opposed to calendar days, for example.

The Chair (Mr. Bas Balkissoon): The reason I ask this is because, if you look at the way we deal with legislation when it comes to a standing committee after second reading, amendments are moved on the floor. The minister who might be responsible for implementing those reviews and whatever is not here and they can't comment, and the committee sends it to the House. I want to make sure that whatever we do deals with all the issues, because I could see a date being moved that is not

practical, in some cases, or it might be a date that is tied to something else and that something else never happened also.

I just want to make sure that whatever we do here does close the loop properly and it doesn't tie someone's hands so that they're stuck.

The Clerk of the Assembly (Ms. Deborah Deller): Mr. Chair, I guess what I'm envisioning here is that the committee will not necessarily be dealing with legislation. What I presume you will be doing is making a report that will make certain recommendations, and they are recommendations; the House will have the final say on whether to accept them as they are or to amend them, or to not deal with them at all.

The Chair (Mr. Bas Balkissoon): In our research report, there were possible options for dealing with this. I guess one of them was the Clerk of the House. Do you see any problems with the Clerk of the House being responsible for the trigger mechanism, and then everyone else falls in line? It's just to cause the trigger mechanism, not to be responsible—

The Clerk of the Assembly (Ms. Deborah Deller): I don't see a problem, but I have to qualify that by saying that I guess it depends on the mechanism that you decide on.

The Chair (Mr. Bas Balkissoon): Okay. Maybe a simple letter to the minister, saying, "This is due."

The Clerk of the Assembly (Ms. Deborah Deller): It could be.

The Chair (Mr. Bas Balkissoon): Thank you very much.

Are there any other questions for the Clerk and the Speaker before I let them—thanks very much for taking the time.

The Speaker (Hon. Steve Peters): Thank you.

The Chair (Mr. Bas Balkissoon): Now that it's in committees, what would you like to do? Any speakers, suggestions, comments? And I will say that we have about 40 minutes.

Ms. Sylvia Jones: I like the Clerk's suggestion of bringing back to us some options of how we can proceed. I'd like to formally request that they do that, if the rest of the committee supports it.

The Chair (Mr. Bas Balkissoon): Okay.

Ms. Sylvia Jones: Let's look at our options.

The Chair (Mr. Bas Balkissoon): Mr. Prue?

Mr. Michael Prue: Yes, I would agree with that. I would only put a time frame on it, though, and ask that they do it as expeditiously as possible so that we can perhaps have at least one committee meeting to discuss that before we break for Christmas. But, failing that, we can start as soon as we come back in the new year.

The Chair (Mr. Bas Balkissoon): Let me ask our research. Can it come back the week before we break? Do you need two weeks?

The Clerk of the Committee (Ms. Tonia Grannum): December 1?

Mr. Yasir Naqvi: It's possible.

The Clerk of the Committee (Ms. Tonia Grannum): Two weeks from now would be December 1, right? And then, December 8, we could have a meeting.

Mr. Michael Prue: That's what I'm saying: just so that we can hash it out in here. If we need anything else, we can look at it and see if there's anything else we need so that we could really do our work in March, when we come back.

As I say, I think we have a real window here. If we don't seize the window, then come May, it's not going to happen.

The Chair (Mr. Bas Balkissoon): Okay. Research says December 1 is fine to provide us with a draft, and then committee meets on December 8, the following week.

Mr. Michael Prue: Yes.

The Chair (Mr. Bas Balkissoon): Are there any specifics you want to request, other than the suggestions given by the Clerk and the Speaker? I have asked that we get their notes and that they be circulated to all of us so we remember what they said.

Ms. Sylvia Jones: Just one additional one: I found the background on other Legislative Assemblies helpful. I would like some examples, if there are any, of what the provisions are for penalties when it is not happening.

Mr. Peter Sibenik: Yes. It will be a very short response, because there's very little in the way of penalties, and I will explain at the next meeting as to why there are no penalties for these kinds of provisions.

Mr. Yasir Naqvi: Okay, that's great. I just want to go along Sylvia's line. The canvass is helpful, but I found a few things missing. One, the mother country, the House of Commons in the United Kingdom: We have no guidance as to what they do, what the trend is in the UK, how often these types of provisions are used and how they are dealing with it, if at all. That's my beginning point, as to what they're doing.

Similarly, if you can look at Australia—I think you mentioned New South Wales as one example—the Australian House of Commons, and see if we can see what they've been doing and how they've been dealing with these types of situations.

Going to Sylvia's point, what I would like to see in a little bit more detail, in canvassing all other provinces and territories in Canada, is what has been working and what's not. I think it goes to sort of the penalty thing Sylvia was talking about. So a little bit more detail as to what they are doing, what's working, what's not, so that we don't go in a direction—if something's not working, then we don't want to be in that direction, or we'd maybe just be breaking new ground. So a little bit more information on other provinces or territories, along with, of course, the UK and Australia.

I don't know how useful the US may be. I've got "US" written down here, but given it's different—

The Clerk of the Committee (Ms. Tonia Grannum): Very different.

The Chair (Mr. Bas Balkissoon): Totally different.

Mr. Yasir Naqvi: And lastly, literature: You mentioned some of the authoritative work, but are there any articles written here in Canada or other similar Westminster jurisdictions? See if that's of some guidance to us.

Mr. Peter Sibenik: Yes. Thank you.

The Chair (Mr. Bas Balkissoon): Any other comments, suggestions? Everybody's happy with what's been requested?

Okay, the committee is adjourned until December 8. We'll reconvene and we will get a draft from research by December 1.

Mr. Mario Sergio: Can we have that back before the 8th, possibly?

The Chair (Mr. Bas Balkissoon): You're getting it December 1.

Mr. Mario Sergio: Okay.

The Chair (Mr. Bas Balkissoon): You will also get the notes from the Speaker and the Clerk as to their suggestions that they provided to you—all included. Okay?

Mr. Michael Prue: Sounds brilliant.

The Chair (Mr. Bas Balkissoon): Committee adjourned.

The committee adjourned at 1417.

CONTENTS

Wednesday 17 November 2010

Legislative reviews.....	M-151
The Speaker (Hon. Steve Peters)	
The Clerk of the Assembly (Ms. Deborah Deller)	

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Clerk / Greffière

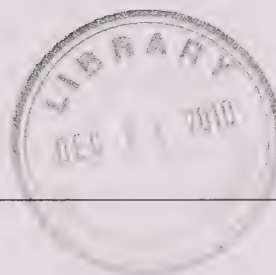
Ms. Tonia Grannum

Staff / Personnel

Mr. Peter Sibenik, procedural clerk,
Journals and Procedural Research Branch

A20N
C 20
L2G

M-10



M-10

ISSN 1180-436X

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 8 December 2010

Journal des débats (Hansard)

Mercredi 8 décembre 2010

Standing Committee on the Legislative Assembly

Legislative reviews

Comité permanent de l'Assemblée législative

Examens législatifs

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Wednesday 8 December 2010

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mercredi 8 décembre 2010

The committee met at 1303 in room 228.

LEGISLATIVE REVIEWS

The Chair (Mr. Bas Balkissoon): We'll call the meeting to order of the Standing Committee on the Legislative Assembly, continuing the discussion on the Speaker's referral. We now have some research done by our research officer, so maybe we could get him to walk us through it. Peter?

Mr. Peter Sibenik: Thank you very much, Mr. Chair. There are two new documents that should be in front of you. One is my December 1 research on other jurisdictions that we canvassed that may have the same kind of difficulty that we have here in Ontario. It's a Survey of Other Jurisdictions on Committee Reviews Required by Statute, dated December 1. The other document is a list of options that I put together that the committee may want to canvass in the course of its deliberations as to what it can do to resolve the referral that the Speaker has placed before the committee.

Turning to the first document, I will say that there are now responses from 17 jurisdictions between this document and a previous document at a previous meeting of the committee. They're from Canadian and other Commonwealth jurisdictions.

I can say, speaking generally, that many jurisdictions have the kind of provisions that are the subject matter that is before the committee today. I will say that some jurisdictions have had experience with non-compliance and not very much has been done about those situations. It's an important issue for this committee and it has been an important issue in other jurisdictions as well, but the responses have been generally all over the map, if I can say that. I'm not sure if any of these will be of any assistance to the committee in its deliberations, but I would point out, for example, what happens in the United Kingdom, because that was asked about the other day.

In the United Kingdom, there's a non-binding undertaking by the government—and I'm looking at page two of the December 1 document. At the top of page two, the government has basically undertaken that it will review the effectiveness of most acts five years after royal assent. The appropriate departmentally related committee can use that as a departure point for its inquiry into the act. I also note there that the House does not keep administrative tabs on the government's compliance with

its legislative duties, including the laying of annual reports. While there are statutes that are established by committee, there are no statutes that provide for committees of the House to conduct a review. In the case of the United Kingdom there is no example of non-compliance. So that's the United Kingdom.

Turning to the other document here, this is a list of options. I think the committee was interested in some options that it could reflect on. There are seven that are indicated here. In some cases—

Mr. Norm Miller: Can I just ask a question, please?

Mr. Peter Sibenik: Yes.

Mr. Norm Miller: So in the United Kingdom, whereas the LHIN review that was in legislation is the cause for this committee to be deliberating about it, if it's not in the legislation, how is it recorded in the United Kingdom that there will be a five-year review of the effectiveness of various acts?

Mr. Peter Sibenik: The government simply made an announcement and indicated that five years after royal assent, it would undertake to produce a document with respect to the effectiveness of that piece of legislation. The department committee that is responsible for that particular legislation can, if it wants to, go ahead and undertake a review of that particular order or act, as the case may be. So there's nothing that is enshrined in legislation, if that is the question.

Mr. Yasir Naqvi: Mr. Chair—

The Chair (Mr. Bas Balkissoon): Yes, Mr. Naqvi.

Mr. Yasir Naqvi: I was looking at the research that you did earlier and then this and what 14 jurisdictions—the impression I'm getting is that what we have in Ontario is what sort of the lay of the land is across in similar models of Parliament as we've got. There doesn't seem to be any compliance or non-compliance provisions out there. I was reading through the memo and some of the excerpts you also produced from the procedure manuals etc. Am I correct in that?

Mr. Peter Sibenik: Are you talking about the penalties associated—

Mr. Yasir Naqvi: Or any mechanism by which we can—I mean, it seems like the practice exists that from time to time provisions have been put into legislation to have some sort of a review. So Ontario is not unique in that mechanism.

Mr. Peter Sibenik: No.

Mr. Yasir Naqvi: So I think that's one thing that's clear. Number two is that there does not seem to be any

trigger mechanism or anything in the standing order rules or any other provisions by which compliance regarding those provisions could be mandated. I don't know if I'm making myself clear.

Mr. Peter Sibenik: Yes. I think that there is—one of the references was to O'Brien and Bosc, and there is a reference in that particular extract to the fact that there's a piece of legislation that requires a committee review and it allows the House to extend a particular deadline that might be mentioned in the statute. But apart from that, there are not the mechanisms that would mesh the legislation on the one hand to the standing orders and the practice of the House on the other hand. So it imposes a bit of a difficulty, I would say, in some of the other jurisdictions and here as well.

Mr. Yasir Naqvi: But I recall from the Clerk's testimony two weeks ago that the Legislature has an inherent power to review any legislation. So that power already exists, right?

1310

Mr. Peter Sibenik: Yes.

Mr. Yasir Naqvi: I'm assuming that that emanates out of the standing orders.

Mr. Peter Sibenik: The House does have the authority to inquire into any matter that is within its jurisdiction. It doesn't really need a statute to do that. The statute is there, I presume, as an accountability mechanism because somebody, at some point in time, insisted on it or requested it. In some cases it would have been in the bill originally. In other cases that particular provision requiring a committee review would have been moved during clause-by-clause. Generally speaking, it would appear in the bill in its original version, in the introduction version.

Mr. Yasir Naqvi: Okay.

The Chair (Mr. Bas Balkissoon): Okay?

Mr. Yasir Naqvi: Yes. I'm just asking questions, and—

Mr. Peter Sibenik: If there are any further questions, I'm happy to field them. I can go through the options document and speak to that, as to the different kinds of things that the committee can turn its mind to. This is the December 8, 2010 document.

The very first option there is that perhaps there could be some kind of a notice of a statutory provision for a required review. The notice could be on the Orders and Notices paper, for example.

Mr. Norm Miller: So, for example, in that case, if the LHIN review was coming up March 31, a month or two months before it would appear on the Orders and Notices paper?

Mr. Peter Sibenik: I'm not sure it would be a month or two before, but it could be whatever the committee wants it to be.

It could be as soon as the trigger mechanism has been initiated. For example, if the legislation requires that there be a committee review after the tabling of a report, then as soon as the report is tabled, it could on the Orders and Notices paper, or it could go in some other kind of a

notice that would be sent to members or House leaders or whoever the committee wants to give the notice to. That's one option there.

As I indicate, that would be a standing order change, and I've got a suggested standing order change that the committee can take a look at it. It's at the top of page 2. It's basically a simple amendment to the notice provision in standing order 54 so that whenever there's a notice requiring the assembly or a committee of the assembly to consider or review a report, the matter should stand printed on the Orders and Notices paper, and it would stay there until it had been disposed of by the committee. It's notice to all members.

The Chair (Mr. Bas Balkissoon): That would be conditional upon the report being available.

Mr. Peter Sibenik: Upon the report being tabled.

The Chair (Mr. Bas Balkissoon): Tabled.

Mr. Peter Sibenik: The trigger mechanism would have had to have occurred first, before it got on to the Orders and Notices paper.

The Chair (Mr. Bas Balkissoon): How does that compare with the situation that exists that brought this whole issue here?

Mr. Peter Sibenik: Well, we don't have a section in our Orders and Notices paper right now—

The Chair (Mr. Bas Balkissoon): No, but there is no report in front of the House right now. I think the complaint was, first of all, that the report is not there, and there was a piece of legislation saying the report should be there. How does that fix—

Mr. Peter Sibenik: The trigger mechanism, though, in other kinds of legislation would be—for example, a provision saying, "four years after royal assent." The four-year time period in the LHIN legislation expired at the end of March. Theoretically, what could have happened within that four-year time period is that the notice of the provision could have been on the Orders and Notices paper. The could have been a little indication beside that item saying, "Deadline: March 30, 2010."

The Clerk of the Committee (Ms. Tonia Grannum): Once the bill had received royal assent.

Mr. Peter Sibenik: Once the bill had received royal assent. That would be—

The Clerk of the Committee (Ms. Tonia Grannum): That would be the trigger for legislation.

Mr. Peter Sibenik: That's correct. That would be the trigger mechanism. The trigger mechanism could be different things. It could be royal assent. It could be the tabling of a report. It could be something else. Whatever that trigger mechanism is, as soon as it's activated, it could go into the Orders and Notices paper.

Ms. Sylvia Jones: But as I understand it, the Chair's question was, this amendment of standing order 54 would not have solved the issue of why this is being discussed at all. You'd need to add the "royal assent" part, would you not? Because otherwise you're waiting for the report to be tabled and nothing appears in the Orders and Notices paper if there is no report tabled. Is that right?

Mr. Peter Sibenik: If there's no report tabled or if royal assent has not happened, it would not appear in here. That's correct.

The Clerk of the Committee (Ms. Tonia Grannum): But the LHIN legislation did receive royal assent, and that would have been the trigger back then if we had this fix at the time.

Mr. Peter Sibenik: That's right. It received royal assent back in 2006, so it would have—

The Clerk of the Committee (Ms. Tonia Grannum): So we could have put notice—

Mr. Norm Miller: So it would be on the Orders and Notices paper for four years—

The Clerk of the Committee (Ms. Tonia Grannum): Exactly.

Mr. Peter Sibenik: It could be, until the committee decided to take it off.

The Chair (Mr. Bas Balkissoon): Can I ask one other question? I hope nobody else has one.

I'm looking at what happened, and correct me if I'm wrong. My understanding was that that review for the LHIN occurred as an amendment at the standing committee, which could happen in any piece of legislation that is in front of us as a committee. The minister or the ministry staff, who were involved in drafting the legislation or doing whatever to correct whatever, would have never really had an opportunity to comment or report back if that particular review date or whatever was achievable.

So, what happens if you do this but something happens in legislation that, for whatever practical reason, isn't achievable? What avenues exist to correct that, because today, I don't think there are any. The only thing is—

The Clerk of the Committee (Ms. Tonia Grannum): The House.

The Chair (Mr. Bas Balkissoon): The House has the power to do whatever it likes, whenever it likes. To me, that has to continue, but if you have committees putting dates in that are not achievable, to me the argument would be that we discourage all dates from legislation because they create a situation that causes this havoc.

If you could clarify that for me? Because if an amendment happens in a standing committee, I see that the people who are responsible for the legislation didn't have a part to play in that date.

The Clerk of the Committee (Ms. Tonia Grannum): But they would be able to comment on any amendment during clause-by-clause consideration of a bill in a committee. So, if an amendment was put—

The Chair (Mr. Bas Balkissoon): Well, they may or may not, because they're not here all the time in some of the committees I've seen.

The Clerk of the Committee (Ms. Tonia Grannum): But they should be, so that when an amendment is put forward and there's discussion, staff are able to come forward through the PA or actually come to the table, if they wish.

The Chair (Mr. Bas Balkissoon): Mr. Delaney?

Mr. Bob Delaney: Just a minor point, Chair. In the discussion that you've made, it's been my observation that things that we would call parameters, like dates or amounts—things that are frequently changeable or amendable—are normally in regulation and not in legislation for the very reasons that you suggested.

The Chair (Mr. Bas Balkissoon): So that would give the ministry and the minister the opportunity.

Mr. Peter Sibenik: Ultimately, it is a matter for the committee to decide when it votes on the amendment. If it's not a good amendment, the committee can—

The Clerk of the Committee (Ms. Tonia Grannum): Vote it down.

Mr. Peter Sibenik: —vote it down. If the House sees that there's a problem with a particular committee review, like whether it's a timeline or anything else, it does have some authority to do exactly what happened last March. That was to pass a bill to extend the deadline, so to speak. That's exactly what happened in legislation—

The Chair (Mr. Bas Balkissoon): But that's why we're here.

Mr. Peter Sibenik: Yes.

The Chair (Mr. Bas Balkissoon): There is objection to that type of move.

Mr. Peter Sibenik: Yes.

The Chair (Mr. Bas Balkissoon): To me, that type of move—if it's not that process, there should be some other process that allows for variations for whatever the situation is.

Mr. Peter Sibenik: Right.

The Chair (Mr. Bas Balkissoon): And whether it's this government or any other government, I'm looking at practicality. Whatever we put in place has to work for everybody. To me, what's in front of us as a recommendation is not 100% perfect. There are still problems.

Mr. Peter Sibenik: This is the first of seven options. So it may very well be that the committee feels that any one of these options is not acceptable, but ultimately—these deadlines are usually not 30 days. In one case it is, but for the most part the deadlines are four years. There should be sufficient time in most cases to have the committee review occur. In this particular case, there wasn't enough time, in the case of the LHIN legislation, so Bill 16 had to be passed.

1320

The Chair (Mr. Bas Balkissoon): But there were objections to the bill.

Mr. Peter Sibenik: Yes.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: I'm just reviewing the seven options again. I think that if you look at the third option, where there is an automatic transfer to the committee if there is something set out in legislation—some kind of timeline for a review, assessment, whatever you want to call it—would option number 3 not be an appropriate way to deal with that? Because then it's not waiting for House leaders to react or windows of opportunity to come forward in terms of debating in the committee. It would be directed to the appropriate committee.

The Chair (Mr. Bas Balkissoon): It'll work if all parties in the Legislature accept that there will be variables. If you look at the LHIN, the argument that happened there is the minister did bring a bill, but people are objecting on the grounds that she wilfully brought it in late or whatever—I'll have to go back to the Hansard for the exact arguments. That's why I think the point was raised with the Speaker and we're sitting here. Some people tend to read those things with rigid time frames, and others would like to see a little bit of leeway. I think, in reality, with the environment we work in, you have to make sure that there is flexibility and that there is reasonable consideration by all parties involved.

Mr. Norm Miller: Flexibility, but if it's automatically referred to a committee, then at least you wouldn't have happening what happened with the LHIN bill.

The Chair (Mr. Bas Balkissoon): But you'd still get the same reason, that the review could not be conducted for whatever was in that bill and the explanation by the minister. To me, that'll still happen.

Mr. Peter Sibenik: I think the Chair is saying that the logjam would happen in the committee as opposed to in the House.

The Chair (Mr. Bas Balkissoon): That's what I'm saying. It still doesn't resolve the issue. The way I pictured it, the complainer was expecting it to be resolved.

Mr. Yasir Naqvi: I wonder, and I don't know the answer to the question—I don't know my standing order rules that well—do we have any mechanism by which a matter could be automatically referred from the House to a committee?

Ms. Sylvia Jones: Well, the example that I'm thinking of is that this committee is responsible and has the ability every time there is an Ombudsman's report, because the Ombudsman's reports automatically come to this committee. Whether we, at a subcommittee level, make a decision that we're going to discuss and bring him in for every single report is our decision.

The Chair (Mr. Bas Balkissoon): But that's only if a report is tabled, and that's why I go back to the tabling issue.

Ms. Sylvia Jones: Oh, I see. But the timeline issue—

The Chair (Mr. Bas Balkissoon): If the Ombudsman doesn't table the report, we can't order him to table it.

Ms. Sylvia Jones: But if it's a timeline issue, then the appropriate committee, whichever one it happens to be, knows that it's in the hopper, so to speak.

The Chair (Mr. Bas Balkissoon): Not really.

Mr. Norm Miller: Point 4: The simplest solution is just don't put it in the legislation, and I guess that's what they're saying. They—

The Chair (Mr. Bas Balkissoon): Actually, I think Delaney raised that issue: Don't put it in the legislation; put it in the regulation. I don't know.

Ms. Sylvia Jones: But there is value in having reviews of legislation.

The Chair (Mr. Bas Balkissoon): Oh, absolutely.

Mr. Yasir Naqvi: But that's why I come to the original point. The Clerk was really clear that that power

inherently exists with all of us who are elected—right?—in the House, that in the House you can request a review of any legislation.

I think I remember that the optimum recommendation from the Speaker and from the Clerk was that these provisions don't exist.

Interjection.

Mr. Yasir Naqvi: Sorry?

Ms. Sylvia Jones: They aren't put in legislation.

Mr. Yasir Naqvi: That they be not put in the legislation.

The Chair (Mr. Bas Balkissoon): There are so many avenues you can—

Mr. Yasir Naqvi: And I remember the Clerk saying—because that power already exists. That's why I find number 4 a bit draconian, actually. We know there are very few circumstances where a bill could be ruled out of order. I know one from the private member's bill point of view, and that's any money bill. Anything which can levy a tax or can collect a tax cannot be done in a private member's bill. That option, to me, as soon as I read it, seemed a little bit too severe—because the threshold on that type of stuff seems to be fairly high—for something very procedural in nature, as what we are discussing here right now.

Ms. Sylvia Jones: And I think there are opportunities with certain legislation that you do want to have it as part of an ongoing review.

The Chair (Mr. Bas Balkissoon): Well, if you remember, we had something from Peter that the Integrity Commissioner or one of the commissioners had some fixed dates—certain things had to take place by fixed dates—and that was okay, because that was understood by everybody. But when you're looking at general legislation from various ministries about programs, services and other things that the government does, it's not as rigid as the Integrity Commissioner's work, so every ministry will be different.

Mr. Yasir Naqvi: Then option 7 probably seems the most reasonable. I think legislative counsel should always be advising against putting in such provisions. All government and private members' bills go through leg counsel for drafting purposes, and that's where I think the strongest legal opinion should come from that says, "Don't put this type of provision in, because it doesn't fulfill any utility."

Mr. Peter Sibenik: I'm not sure that legislative counsel can issue a legal opinion to that effect, because it's perfectly permissible under the Constitution—

Mr. Yasir Naqvi: He could advise, though.

Mr. Peter Sibenik: It could be advice; that's correct. But ultimately the decision is the client's. It's the client who may be insisting on the particular provision.

The Chair (Mr. Bas Balkissoon): Mr. Prue, do you want to weigh in? You've been quiet.

Mr. Michael Prue: It's arcane to me. Just put it in a bloody form, and it's there; that's what I think. Just put it in Orders and Notices, and it's there. I only read those

things every couple of months just to see what's still on the order paper and what's coming up.

The Chair (Mr. Bas Balkissoon): But if you do that and the minister does table a bill like was done in this case saying, "I'm changing the review date," what happens?

Mr. Michael Prue: Is there a majority government or not? If there's a majority government, it happens.

The Chair (Mr. Bas Balkissoon): So whatever we accomplish—

Mr. Michael Prue: Nothing.

The Chair (Mr. Bas Balkissoon): Exactly. That's my point.

Mr. Norm Miller: We're talking about the new bill repealed the provisions of the old bill.

Mr. Peter Sibenik: Yes, and substituted new provisions that extended the deadline.

Mr. Norm Miller: Yes, so that would take it off the—

Mr. Peter Sibenik: But it would go right back on—

Mr. Norm Miller: With a new date.

Mr. Peter Sibenik: Correct.

Mr. Norm Miller: Looking at this, I think the automatic referral to committee and maybe also point six—could you not do a couple so there's more flags going up?

The Chair (Mr. Bas Balkissoon): Anyway, we were here today to receive his notes and go away, and we have a date scheduled in February to come back with recommendations. But I think we've knocked this around a lot. Maybe we need the clerk to summarize this for us, and make the final decision in February.

Mr. Yasir Naqvi: I think we have a little bit of thinking to do, and I can propose a motion on those lines, if everybody gives me permission to do so and maybe explore other options as well.

I have a motion I will read:

That, in order to assist future governments' draft legislation with full awareness of the possible issues they could encounter when including a parliamentary review provision, in order to improve government accountability and oversight, the Standing Committee on the Legislative Assembly directs the researcher to prepare a draft report:

(a) summarizing the testimony thus far presented by the Clerk and Speaker on November 17, 2010;

(b) summarize the examples cited by the Clerk of the Legislature in her presentation of November 17, 2010;

(c) include the contents of the December 1, 2010, memorandum from Committee Clerk Grannum as an information appendix;

(d) include the ruling of the Speaker delivered in the House April 19, 2010;

(e) a canvass of possible options, as listed in the list of options on December 8, 2010, or any other suitable options.

And present it to the Standing Committee on the Legislative Assembly as soon as possible for its consideration.

Maybe at least we can get a sort of shell of a report coming together and we can think a little bit more and—

The Chair (Mr. Bas Balkissoon): Can we add the pros and cons to those options? You've heard some arguments for and against. If you could find some others for each one, because to me—I hate putting rules in place that do have weaknesses.

1330

Mr. Norm Miller: Yes. From the little I know of it right now, I would tend to think of numbers 3 and 6 perhaps together, so there's an automatic referral to a committee—something that's going to catch the attention of those of us around here so we'd—

The Chair (Mr. Bas Balkissoon): But the automatic referral will kick in only when the report is tabled, as he said.

Mr. Norm Miller: An automatic referral—no, he also said it could be based on royal assent, so I would say—

Mr. Peter Sibenik: That's right.

Mr. Norm Miller: —based on royal assent, so it's on the order paper all the time, so that when the date gets near, the committee will be fully well aware and reminded that they need to take on the review.

It looks to me, also, that there would be no harm in—point 6, "New bills and amendments: Legislative counsel should notify the Clerk of the House of a newly introduced bill—or a newly filed amendment to a bill—that requires a review etc. by the assembly or a committee." That's kind of another heads-up mechanism, I would think.

The Chair (Mr. Bas Balkissoon): Shall we take it all together?

Mr. Yasir Naqvi: I have to see the wording Mr. Miller was proposing. Sorry.

Mr. Norm Miller: I was just making a point. I don't know what to have. The motion—

The Chair (Mr. Bas Balkissoon): No, no. He's just saying he would like to see another option, which is a combination of 3 and 6, as an option.

Mr. Yasir Naqvi: Yes, okay. Sorry.

Mr. Norm Miller: I'm just selecting those two together—

The Chair (Mr. Bas Balkissoon): That's okay? Shall we take his motion with—

The Clerk of the Committee (Ms. Tonia Grannum): I'm just getting copies.

The Chair (Mr. Bas Balkissoon): You're getting copies? Okay, so we'll pass it around. Two seconds.

Mr. Michael Prue: May I ask—I just don't want to get so much work for everybody here that we don't come to a conclusion. Is this anticipated—

The Chair (Mr. Bas Balkissoon): We want to spend Christmas peacefully, Michael.

Mr. Michael Prue: I don't intend to read any portion of this over Christmas. I do intend, though, when we come back here, sometime in February or March, to see the report and to deal with it expeditiously and get it off and away so that it will take effect after October for anybody who is lucky or unlucky enough to be back here.

The Chair (Mr. Bas Balkissoon): If you look at all the research, there is no House out there with a clear set of rules that do work. So we're—

Ms. Sylvia Jones: Yes. Understanding that even if we, as a committee, make suggested changes—

The Chair (Mr. Bas Balkissoon): The House could kill it.

Ms. Sylvia Jones: Bingo.

Mr. Yasir Naqvi: This is a recommendation. I do agree with Michael. We're all grappling with what the most optimum option is, right? I think our job is to make sure that we think through how it will all work out. As I look at these options—and I just saw this options document today. This was the first time I saw it, so I'm just going through it. I think if you had a bit of a more compiled document, it would allow us to make that expeditious decision so all the background writing is done and we can sort of, hopefully, land on something which we all are satisfied works, and recommend that to the House. That's how I'm thinking. Everybody looks content.

The Chair (Mr. Bas Balkissoon): That's the only reason I said to write a pro and con for each one of these things here because if it's weak, you might not want to consider it.

Ms. Sylvia Jones: Okay. And what's the timeline for when we will review it?

The Chair (Mr. Bas Balkissoon): We were going to get this back from Peter. We could put that date today, but we're coming back for our meeting when? The second week in—when the House resumes, I think we said?

The Clerk of the Committee (Ms. Tonia Grannum): The House resumes on the 23rd or—

The Chair (Mr. Bas Balkissoon): So we agreed on March. I think we agreed on a date in March.

The Clerk of the Committee (Ms. Tonia Grannum): You want to do it in March?

The Chair (Mr. Bas Balkissoon): Yes, we did—

Mr. Michael Prue: That is the anticipated day of the House returning, but that is not written in any kind of stone.

Ms. Sylvia Jones: And we're not in committee when the House is in recess, correct?

Mr. Michael Prue: I know. That's why I'm worried.

The Chair (Mr. Bas Balkissoon): That's why we had picked March, I believe.

Mr. Michael Prue: If the Premier picks some other date to come back—

The Chair (Mr. Bas Balkissoon): Well, we're picking when we know we're back, which is in March.

Mr. Michael Prue: Okay.

The Clerk of the Committee (Ms. Tonia Grannum): The first week in March? Wednesday, March 2?

Ms. Sylvia Jones: Wait a minute. Why do we have to pick a date in March? Why can't we say the first Wednesday when the House resumes?

The Clerk of the Committee (Ms. Tonia Grannum): February 23.

The Chair (Mr. Bas Balkissoon): The second one.

Ms. Sylvia Jones: Why? We're going to have the report prior to that.

The Chair (Mr. Bas Balkissoon): He said he's not going to read it, and I guarantee—

Ms. Sylvia Jones: He said he wasn't going to read it over Christmas. He's got January and February.

Mr. Michael Prue: Well, yes, I don't mind reading it after.

The Chair (Mr. Bas Balkissoon): Okay. The first Wednesday would be two days after we come back.

The Clerk of the Committee (Ms. Tonia Grannum): The 23rd.

Ms. Sylvia Jones: Right.

The Chair (Mr. Bas Balkissoon): That's why we're saying the following week would be better.

Ms. Sylvia Jones: What's wrong with that? We're back.

The Chair (Mr. Bas Balkissoon): We want to finish it.

Ms. Sylvia Jones: Yes, so my suggestion is that we have the report from research on the first Monday of February—that gives us a couple of weeks to review it—and then we meet the first Wednesday that the House resumes, regardless of what that date actually ends up being.

The Chair (Mr. Bas Balkissoon): Everybody agrees?

Mr. Yasir Naqvi: The first Wednesday when the House resumes?

The Chair (Mr. Bas Balkissoon): When the House resumes.

The Clerk of the Committee (Ms. Tonia Grannum): February 23.

Mr. Yasir Naqvi: Sounds good.

Ms. Sylvia Jones: Thank you.

Mr. Yasir Naqvi: I love Sylvia's diligence.

The Chair (Mr. Bas Balkissoon): I just know a bunch of you don't come back the first week. I'm so accustomed to seeing that happen.

Mr. Yasir Naqvi: I think I need to add a bullet to this.

The Chair (Mr. Bas Balkissoon): You want to add another point?

Mr. Yasir Naqvi: Well, it's not recorded. I added it as I was reading this motion, Chair, because I didn't know that a list of options existed.

I'm adding a bullet, I guess (e), which will say, "Include a list of options with pros and cons." Is that sufficient?

The Chair (Mr. Bas Balkissoon): Norm, do you want to amend your request with this or do you want to put it in separately?

Mr. Norm Miller: No, no, that's fine, as long as he—

Mr. Yasir Naqvi: Yours was just on what types of options, right?

Mr. Norm Miller: I'm just trying to wrap up the meeting—just pick (3) and (6) and get it over with.

The Clerk of the Committee (Ms. Tonia Grannum): The December 1 memorandum—I would

just correctly identify it as the procedural clerk's research. It wasn't my hard work; it was Peter's hard work.

The Chair (Mr. Bas Balkissoon): Okay, a small change. So you understand what he's saying? He wants to see (3) and (6), a combined option, as an alternative.

Mr. Peter Sibenik: As a combined option?

The Chair (Mr. Bas Balkissoon): I think that's what he said. I don't know.

Mr. Peter Sibenik: Or discussed separately?

Mr. Norm Miller: I was suggesting that might be a combined option, but I'd certainly take your feedback as

to whether that does or does not make sense. I was just looking at ways to make it so it automatically happened and there were some flags going up around this place, so that the dates weren't just missed.

The Chair (Mr. Bas Balkissoon): Does everybody understand all the requests? Okay, take it all together: All agreed? Agreed.

Anything else? No?

The meeting is adjourned until the first Wednesday when the House resumes.

The committee adjourned at 1339.

CONTENTS

Wednesday 8 December 2010

Legislative reviews.....	M-163
--------------------------	-------

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Substitutions / Membres remplaçants

Mr. Bob Delaney (Mississauga–Streetsville L)

Ms. Helena Jaczek (Oak Ridges–Markham L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Peter Sibenik, procedural clerk,
Journals and Procedural Research Branch



M-11

M-11

ISSN 1180-436X

**Legislative Assembly
of Ontario**

Second Session, 39th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 39^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 30 March 2011

**Journal
des débats
(Hansard)**

Mercredi 30 mars 2011

**Standing Committee on
the Legislative Assembly**

Organization

**Comité permanent de
l'Assemblée législative**

Organisation

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

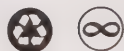
Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 30 March 2011

Mercredi 30 mars 2011

The committee met at 1300 in room 228.

ORGANIZATION

The Vice-Chair (Mr. Yasir Naqvi): I call this meeting to order. Welcome to all members.

You have the agenda in front of you, and the first—or the only—item that I see on the agenda is the appointment to the subcommittee on committee business. Do I have a motion? Ms. Jones.

Ms. Sylvia Jones: I would like to move that Steve Clark replace Mr. Miller, Parry Sound–Muskoka, on the subcommittee on committee business.

The Vice-Chair (Mr. Yasir Naqvi): Okay.

Mr. Dave Levac: I second it.

The Vice-Chair (Mr. Yasir Naqvi): Mr. Levac, thank you. All in favour? Any opposed? Carried.

Mr. Steve Clark: Thank you. I appreciate it.

Mr. Dave Levac: It was a cliffhanger.

The Vice-Chair (Mr. Yasir Naqvi): So the membership of the subcommittee is as follows: The Chair is the Chair, and Mrs. Van Bommel, Mr. Clark and Mr. Prue are the members of the subcommittee.

COMMITTEE BUSINESS

The Vice-Chair (Mr. Yasir Naqvi): Okay, any other items? Mr. Clark?

Mr. Steve Clark: I just had a question. Upon reviewing the package that the clerk sent to my office, I noticed that the committee reviews broadcast services, but I hadn't seen that they have done an annual review in some time. So I thought that was something that we should pursue.

The Vice-Chair (Mr. Yasir Naqvi): Okay. Clerk.

The Clerk of the Committee (Ms. Tonia Grannum): It is in the mandate of the committee that, at least on an annual basis, they review the broadcast television system and the guidelines. The last time we did the review was in May 2008. We had a meeting on May 28, 2008, and then we had another meeting on June 11, 2008, because we had some follow-up issues.

The Vice-Chair (Mr. Yasir Naqvi): Ms. Jones.

Ms. Sylvia Jones: So we're a little behind. We should be setting that.

The Vice-Chair (Mr. Yasir Naqvi): Okay. Other views of members of the committee? Mr. Levac.

Mr. Dave Levac: Well, it was a question. Is it a request?

Mr. Steve Clark: Yes, it is a request.

Mr. Dave Levac: So I think that in terms of June 2 and where we are right now, I would rather leave that for the next Parliament.

Ms. Sylvia Jones: What? We're supposed to do it annually.

Mr. Steve Clark: I think it's in the standing orders, the way I read the package.

The Vice-Chair (Mr. Yasir Naqvi): Can we get a clarification as to how it reads in the standing orders?

The Clerk of the Committee (Ms. Tonia Grannum): Standing order 108 says the committee is to “act as an advisory body to the Speaker and the House on the television broadcast system and to conduct reviews, at least on an annual basis, of the televising of the legislative proceedings and of the guidelines established by the House with respect to the television broadcast system.”

That's in its mandate, so it's up to the committee.

The Vice-Chair (Mr. Yasir Naqvi): It says, “at least on an annual basis.”

Mr. Michael Prue: Can I ask a question here?

The Vice-Chair (Mr. Yasir Naqvi): Mr. Prue.

Mr. Michael Prue: I am mindful of the end of May. I don't think we're coming back, quite frankly, after the long weekend, the May 24 long weekend. I will be shocked if the government returns. Having said that, how much business do we have still before the committee that has to be resolved by then?

The Clerk of the Committee (Ms. Tonia Grannum): We have some private members' public bills that are before the committee, but otherwise, that's it.

Mr. Michael Prue: That's it? Okay. I don't have any problem with the motion.

The Vice-Chair (Mr. Yasir Naqvi): Mr. Levac?

Mr. Dave Levac: I boldly try not to make assumptions, but in this case, I would assume that government business would be forthcoming. As it does, it always takes precedence, anyway. I am concerned about filling the docket and not having access to the committee, so my original comment stands.

Ms. Sylvia Jones: But the reality is the docket is empty, and we do have a responsibility, as the Legislative Assembly committee, to do some of these reviews. The last annual review was done in 2008. We're now in 2011.

Quite frankly, I think we're behind on our responsibilities and we should, since we do have the opportunity—we are scheduled to meet every Wednesday—begin next week with this review.

The Vice-Chair (Mr. Yasir Naqvi): Any other comments on this? Mr. Johnson?

Mr. Rick Johnson: Just a question on timelines for something like this. I'm new to this, and I'm subbing, so it's an information piece. What's involved in a review of this, from staff, and how much time?

The Clerk of the Committee (Ms. Tonia Grannum): Normally, we invite the director of broadcast and recording and the Clerk to come and give us a briefing on the televisation of the Legislature and the guidelines, and then the committee goes from there. It's just an invitation. That doesn't take us long to do—it's just based on their availability—and then the committee decides, after they've heard the briefing, what they want to do.

The Vice-Chair (Mr. Yasir Naqvi): Mr. Levac.

Mr. Dave Levac: When you say it goes from there, what does that usually entail, when you said that in 2008—

The Clerk of the Committee (Ms. Tonia Grannum): We had just two meetings.

Mr. Dave Levac: So it took two meetings after the May 8 review?

The Clerk of the Committee (Ms. Tonia Grannum): No, it took two meetings, including May 8. So May 8, we had the briefing. There were some concerns that were raised, and we asked for follow-up from the Clerk, and the Clerk came back in June and provided that information. Then the committee was satisfied.

Mr. Dave Levac: And then the committee what?

The Clerk of the Committee (Ms. Tonia Grannum): Was satisfied. They had completed their review.

Mr. Dave Levac: Was satisfied, meaning, "Thank you for telling us what this function is," no recommendations, no discussions—

The Clerk of the Committee (Ms. Tonia Grannum): Well, they didn't actually look at the guidelines during that review. They really based it on—they looked into the fact that the parliamentary channel wasn't carried on the satellite feeds and it wasn't carried on certain digital channels. So that's what they looked into, and they looked into the advice, giving a letter to the CRTC to get us on those channels. That's the focus—

Ms. Sylvia Jones: So there was some action?

The Clerk of the Committee (Ms. Tonia Grannum): Yes. The Clerk came back and gave an update and had said that they were writing a letter.

Mr. Dave Levac: Okay. In continuation, my question to the mover, then, Steve, is if you've noticed anything, or is this just for the sake of reviewing it?

Mr. Steve Clark: I think it's two things. I do believe that it's a requirement in our statute that we do have the review. Certainly I think some of those issues that the committee dealt with at their last meeting about broad-

cast at the Legislative Assembly are still valid. Since that time, in reviewing what other legislative assemblies do for some of their committee hearings—some of their committee hearings are streamed live on the Internet—I think there are some things that we can discuss to have better access to our proceedings here, both in committee and in the Legislative Assembly, available online. So just as an issue, those are two that I can think of just like that.

The Vice-Chair (Mr. Yasir Naqvi): Mrs. Van Bommel.

Mrs. Maria Van Bommel: Tonia, you were saying that out of the last time that they did it, in 2008, actually what happened was that a letter went forward to the CRTC to ask that these things be put on satellite? Is that what you said?

Mr. Peter Sibenik: If I can be of some assistance here—

Mrs. Maria Van Bommel: Certainly, Peter.

Mr. Peter Sibenik:—this is an issue that has been of particular interest to Mr. Delaney. You may recall that back in 2008, he introduced a private member's motion on the issue of the dropping of the television signal of the legislative proceedings by Star Choice, so he introduced that motion, and I believe it did carry. I'd have to refresh my memory on that.

Mrs. Maria Van Bommel: My thought is—because that's exactly the issue I have in my riding, and I'm sure you do too, Steve. My constituents don't see it. There's no cable; it is all satellite. It was on satellite at one time, and then, as you say, in 2008, it was dropped.

I'm not disputing—I'm just wondering if there is any point in even trying. Can we force companies like Star Choice—I think they're Shaw now—to do anything like that?

Mrs. Laura Albanese: The CRTC can.

Mrs. Maria Van Bommel: But can we force the CRTC to then, in turn—I'm just questioning the value of the time spent here.

The Vice-Chair (Mr. Yasir Naqvi): Mr. Prue.

Mr. Michael Prue: I think we're looking at it far too narrowly. That was the issue then; that may not be the issue now.

Mrs. Maria Van Bommel: It's still the issue for some of us.

Mr. Michael Prue: It is still an issue, but in three years, there could have been a great many other developments of which we are unaware. I would very much like to have two people, the Clerk and somebody from broadcast, come here and explain to us what problems, if any, they are encountering. If that's still a problem and ongoing, I don't have any objections to rewriting the letter, but there could be other things. I don't want to narrow it just to that one issue, and I don't really see any difficulty. We have six sessional weeks, as far as I can think, maybe seven, before the end. If we have one day for hearing them and potentially another day for making recommendations, that still leaves us four or five Wednesdays on which to do other business.

Mrs. Maria Van Bommel: Yes.

The Vice-Chair (Mr. Yasir Naqvi): The clerk points out that there are television guidelines that exist in the standing orders, as I understand, so they could also be reviewed.

I do have a question as well. I'm hearing that there was a letter sent to the CRTC pursuant to the work that was done in May 2008. Do we know, Clerk, if we ever heard back from the CRTC? Did they ever respond to the concerns raised by the committee?

The Clerk of the Committee (Ms. Tonia Grannum): I'm not sure. I'd have to go and find out that information. I know that at the last meeting, the Clerk agreed that the Speaker and the Clerk would send a letter to the CRTC. I'd have to check on the follow-up on that.

The Vice-Chair (Mr. Yasir Naqvi): Ms. Albanese.

Mrs. Laura Albanese: I think that's important to find out, to see if the CRTC provided an answer or not and if there was any further action.

The Vice-Chair (Mr. Yasir Naqvi): If there was any follow-up on that.

Mrs. Laura Albanese: Any follow-up. I don't think anyone was called—

The Vice-Chair (Mr. Yasir Naqvi): Any other points, discussions?

Mr. Clark, I don't know if you put forward a motion or you just made a request. Maybe you might want to—

Mr. Steve Clark: Again, because this is my first meeting, when I read the orders that part of our mandate would be to have an annual review, and the fact that we have not had a review for some years, if a motion is required, I would certainly move that, pursuant to our committee's terms of reference, we have a meeting with broadcast services as part of that annual review.

The Vice-Chair (Mr. Yasir Naqvi): Okay. We have a motion from Mr. Clark. I will call the vote. Does everybody agree?

Mr. Dave Levac: To call the vote? Go ahead and call the vote.

Interjection.

The Vice-Chair (Mr. Yasir Naqvi): Okay. Those in favour? Opposed? I see three to two. Motion carried.

Mr. Steve Clark: Thank you very much, Mr. Chair.

The Vice-Chair (Mr. Yasir Naqvi): Can we talk about some of the modalities around this? When do you want to meet and, I guess, have our first witnesses come—the director of broadcast services?

Ms. Sylvia Jones: Just a point of clarification: Are we looking at both the Clerk and the head of broadcast services, as we did in 2008, or just the head of broadcast services?

The Clerk of the Committee (Ms. Tonia Grannum): It's up to the committee.

Ms. Sylvia Jones: I would suggest, because they work here, that the invitation be made for next week.

The Vice-Chair (Mr. Yasir Naqvi): We'll look at the calendar.

Mr. Michael Prue: If I could, on the point of order, is this not the job of the subcommittee and not the full committee?

The Clerk of the Committee (Ms. Tonia Grannum): It can be done either way.

Mr. Michael Prue: All right.

The Vice-Chair (Mr. Yasir Naqvi): Next Wednesday is April 6. We can have the Clerk—

The Clerk of the Committee (Ms. Tonia Grannum): We'll send an invitation.

The Vice-Chair (Mr. Yasir Naqvi): We'll send an invitation inviting the Clerk and the director of broadcasting for next Wednesday.

Mr. Dave Levac: Excuse me, Mr. Chairman. I hear clearly what Mr. Prue was saying, and I tend to agree with his observation, whether or not he has changed his mind. I think the subcommittee is struck to make those arrangements; they've always done it. I would prefer that the subcommittee meet to make that decision.

The Vice-Chair (Mr. Yasir Naqvi): We're here, so I guess we can make those decisions.

Mr. Steve Clark: Basically, I thought we had just decided that it's going to be April 6. Why can't we just move forward and get it done?

The Vice-Chair (Mr. Yasir Naqvi): All right. We will send an invitation to the Clerk and the director of broadcasting to appear before the committee on April 6. We'll hear their submissions and then proceed to discuss further as to the next steps.

Mr. Michael Prue: At what time does this take place? At 1 o'clock?

The Vice-Chair (Mr. Yasir Naqvi): Yes, 1 o'clock, the regular time for the meeting.

Any other business? Great. Thank you very much. Meeting adjourned.

The committee adjourned at 1314.

CONTENTS

Wednesday 30 March 2011

Organization	M-171
Committee business.....	M-171

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Steve Clark (Leeds–Grenville PC)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Substitutions / Membres remplaçants

Mrs. Laura Albanese (York South–Weston / York-Sud–Weston L)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Mr. Dave Levac (Brant L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Peter Sibenik, procedural clerk,
Journals and Procedural Research Branch



M-12

M-12

ISSN 1180-436X

**Legislative Assembly
of Ontario**

Second Session, 39th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 39^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 6 April 2011

**Journal
des débats
(Hansard)**

Mercredi 6 avril 2011

**Standing Committee on
the Legislative Assembly**

Television broadcast system

**Comité permanent de
l'Assemblée législative**

Système de télédiffusion

Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 6 April 2011

Mercredi 6 avril 2011

The committee met at 1305 in room 228.

TELEVISION BROADCAST SYSTEM

The Chair (Mr. Bas Balkissoon): I'll call the meeting to order of the Standing Committee on the Legislative Assembly. We're here today for our orientation briefing on the television broadcast system of the Legislative Assembly of Ontario. We have with us the Clerk and the director of broadcast and recording services.

I will turn it over if you have a couple of opening remarks you want to get into, and then we'll move on to the tour, I understand?

The Clerk of the Assembly (Ms. Deborah Deller): Yes. Since I last talked to you about broadcast and recording, we haven't made a lot of significant changes, so we thought that since there are probably a number of you sitting here who haven't actually had any tour of the inner workings of the broadcast and recording system, we would maybe take a break from this room and take you on a tour of the media studio operations and all of the rest of the broadcast and recording operations.

We can do that first, if you like, and then come back to this.

The Chair (Mr. Bas Balkissoon): That's all you have for opening remarks? I thought you had more.

Ms. Sylvia Jones: I should warn you that one of the elevators is not working, so it may be an exercise tour.

The Chair (Mr. Bas Balkissoon): It's only one floor; come on.

Mr. Yasir Naqvi: Chair, I just want to ask the Clerk whether she brought a rope for us, so that we can all be together?

Laughter.

The Clerk of the Assembly (Ms. Deborah Deller): Yes, I have the rope—and a bag of Chips Ahoy! cookies, too.

Mr. Yasir Naqvi: Oh, fantastic. We can all hold it.

The Chair (Mr. Bas Balkissoon): Okay. Does anybody on committee—are we in agreement? Go for the tour, and then we'll come back?

Interjection: Sure, absolutely.

The Chair (Mr. Bas Balkissoon): Okay; do we have to get a motion to recess, or no?

Mr. Dickson.

Mr. Joe Dickson: Where is the tour and how long is the tour? I either sprained my ankle or gout has gone to the other side of my body.

The Chair (Mr. Bas Balkissoon): Well, it's a tour of the television broadcast system and I believe the media room downstairs, so the first floor and the third floor.

Mr. Arleigh Holder: We're going to start on the first floor, and then we're going to go to the third floor.

The Chair (Mr. Bas Balkissoon): So we could take the elevator. How long would it last?

Mr. Arleigh Holder: About half an hour.

The Chair (Mr. Bas Balkissoon): Half an hour, and then we're back here in half an hour.

Mr. Yasir Naqvi: We can take you in the chair. We'll just roll it around.

Mr. Joe Dickson: You got a wheelchair?

Mr. Yasir Naqvi: Well, you're in a wheely chair.

Mr. Joe Dickson: Thank you very much.

The Chair (Mr. Bas Balkissoon): Is everybody going on the tour?

Mr. Michael Prue: Sure.

The Chair (Mr. Bas Balkissoon): Okay. So then we'll all come back here, because if we're not all going on the tour, I should pick a time to resume. So we're going on the tour.

The Clerk of the Committee (Ms. Tonia Granum): Okay. We're recessed?

The Chair (Mr. Bas Balkissoon): Yes, we're recessed.

The committee recessed from 1308 to 1353.

The Chair (Mr. Bas Balkissoon): We'll reconvene the meeting. Madam Clerk?

The Clerk of the Assembly (Ms. Deborah Deller): I guess, as we go along, if you have questions as a result of the tour or of anything that Arleigh and I talk about, then just interrupt and we can deal with them as we go.

One of the elements of this committee's mandate is to review the broadcast guidelines. I don't know whether you've been given copies of those.

The Chair (Mr. Bas Balkissoon): Yes, they were circulated.

The Clerk of the Assembly (Ms. Deborah Deller): These guidelines have actually been in place since broadcast and recording was first created and the chamber and room 151 were first televised, in 1986.

The principle behind the guidelines at the time was that the camera shots should really be confined to the member speaking and not be wider shots or shots left to the discretion of camera operators. The feeling then was that it's not so much a television show as just a way of

distributing the proceedings of the House to the wider audience.

I don't know whether you've had an opportunity to go through these, and whether or not there are any concerns you have with the guidelines. Arleigh and I have talked, and we don't have any particular amendments that we would recommend right now to these guidelines.

There is one thing I would like to point out: Number 3 talks about the proceedings in the legislative chamber and the last line talks about, "Proceedings of any standing or select committee may be recorded and broadcast by agreement of the House leaders." In fact, what's happening more frequently is that there are certain committees that move and pass motions to have their proceedings broadcast for certain particular reasons.

An example of that was the committee that did the disabilities act. The committee there wanted to ensure that people in the disabled community had the fullest ability to watch the committee proceedings, so those committee proceedings were broadcast to the public. Now we have an additional committee that is doing the Forestry Act that has also passed a motion to have its proceedings included on the webcast.

In our minds, it doesn't make sense in each and every one of these cases to have to get agreement of the House leaders; in particular, for example, with the forestry committee. That proceeding can easily be accommodated on our webcast with an additional link that says, "committee hearings on such-and-such a bill" at no additional cost.

The Chair (Mr. Bas Balkissoon): We have a couple of questions here: Ms. Jones, then Mr. Clark.

Ms. Sylvia Jones: With the two examples that you gave, did it still need to go back to the House leaders for that approval, or was it approved just because it was in the subcommittee meetings?

The Clerk of the Assembly (Ms. Deborah Deller): Because the committee agreed to it, we went ahead and did it. Essentially, if it's in 151, it's broadcast anyway; it's just a question of whether it's broadcast live or not. Because we can do it now without pre-empting the House, it's a different situation than it was in 1986.

Ms. Sylvia Jones: Are you suggesting that these guidelines need to be updated, then?

The Clerk of the Assembly (Ms. Deborah Deller): I would just suggest that if you're looking at updating, that might be one you might want to take a look at.

Ms. Sylvia Jones: Fair enough. Thank you.

Mr. Steve Clark: Just to follow up on that, that is the section that I'd like to revisit, section number 3. I was on the general government committee last week and I have to admit that the reason I asked the question was because of the fact that we were reviewing broadcast services this week. It seems to be, when you look at other legislative assemblies, they have the capability of providing streamed video on their committee meetings, and some of them provide audio for podcasts. That's why I asked the question. If we can do a Skype presentation and have a live stream for a committee for one committee meeting, as a

standing committee we should consider to amend 3 so that's provided.

The Clerk of the Assembly (Ms. Deborah Deller): Just a word of caution is that the only committee room that's equipped for televising—

Mr. Steve Clark: Is 151.

The Clerk of the Assembly (Ms. Deborah Deller): —is 151 and that was done by design in 1986. But you're quite right: We could explore the possibility of doing an audio stream, as you say, as some other jurisdictions do. I guess that's something for this committee to decide: whether they would want committees to determine on a case-by-case basis whether or not they want to be streamed or whether they would want to just have it done as a matter of course.

Mr. Steve Clark: And certainly, when I look at other provinces, there's a whole host and it appears that there are many smaller provinces that provide a lot better audio and video access to their proceedings than we do. Again, if it doesn't cost very much—and obviously even in a committee room like this, an audio feed for a podcast wouldn't be that outrageous. We have the technology right now to do that. Certainly, if we were to provide a live stream of this committee with simultaneous translation, then I think there would be some extra costs that we would have to do. Looking at BC, Manitoba, Saskatchewan, there are some things that are already out there that I believe we could accommodate that would give the citizens of Ontario a lot better access to our proceedings than what they have today.

The Chair (Mr. Bas Balkissoon): Mr. Delaney?

Mr. Bob Delaney: In that vein, I was just going to suggest that, with only minor changes in the wording, we could change the default option to make it so that committees will be broadcast. For example, the last sentence, with only tiny changes, could read, "Proceedings of any standing or select committee shall be recorded and broadcast unless agreed to the contrary by the House leaders."

1400

The Clerk of the Assembly (Ms. Deborah Deller): Except that, again, we don't have the means to broadcast every committee. If you have three committees meeting—

Mr. Bob Delaney: All at the same time.

The Clerk of the Assembly (Ms. Deborah Deller): The only one that can be broadcast currently is the one in room 151. There's a huge expense to refitting the committee rooms to include cameras and interpretation and everything that's involved in broadcasting a committee hearing.

Mr. Bob Delaney: Okay, fair enough.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi?

Mr. Yasir Naqvi: Just to recapture the conversation that has taken place thus far, so that I have a better understanding, we're talking about one room which has the capacity to broadcast live proceedings on our website. In other committee rooms, there is capacity to broadcast audio only—

The Clerk of the Assembly (Ms. Deborah Deller): To be clear, we haven't explored that. What I'm saying

in response to Mr. Clark is that's something we could look into.

Mr. Yasir Naqvi: So we know for sure that we have one committee room with that capacity, and the rest of the committee rooms we don't know yet.

My question to you is on cost. If we said every proceeding that takes place in that room is to be put on our website, there is no additional cost?

The Clerk of the Assembly (Ms. Deborah Deller): In room 151?

Mr. Yasir Naqvi: Yes.

The Clerk of the Assembly (Ms. Deborah Deller): There may be additional costs. Arleigh, do you want to—

Mr. Arleigh Holder: If it's going to be on the website, it's mainly bandwidth costs, which shouldn't be that much. Bandwidth costs keep going down every year.

The Clerk of the Assembly (Ms. Deborah Deller): Currently, the committee that's doing the forestry bill—web streaming that committee is not going to cost us anything because we've still got availability in the bandwidth.

Mr. Yasir Naqvi: So the committee may need an estimation of additional cost.

The Chair (Mr. Bas Balkissoon): Mr. Clark?

Mr. Steve Clark: When I read what Mr. Delaney proposed, the word "live" didn't come into his amendment. You can provide recorded and broadcast hearings or events live in committee room 151, or you could broadcast an audio feed that you would archive for other committees that would be provided in other rooms. For example, it would be pretty simple for us to record our proceedings today and at some other date present them and have them available on the Internet. I can't foresee that that would cost us a ridiculous amount of money. I think we have the technology and the capability today to do that.

Certainly, if we were going to provide this room as a live video feed, yes, there would be some extra costs. But I think there are some things we can do today. We could move forward with the Amethyst Room being provided on a regular basis with some minimal costs. If you want to provide what those costs would be at another meeting of this committee, I'd be more than happy to listen.

I think the whole issue is intent. The technology is available today. It was proven last week at general government that we could provide that service, and I think it is part of this committee's mandate to discuss it. I think we should move forward.

The Chair (Mr. Bas Balkissoon): Mr. Delaney?

Mr. Bob Delaney: In terms of broadcast, what unit of measure are we using when we refer to bandwidth, and what capacity factors are we running right now?

Mr. Arleigh Holder: For the House, on an average day, it's not a lot of bandwidth, but during special days, like budget presentations, it will peak. That's when we get costs. I can't give an exact figure, but it's well within our budget.

Mr. Bob Delaney: I understand. I'm just curious: When the provider invoices you, what unit of measure are they using?

Mr. Arleigh Holder: They're using how many people connect at a certain time and current users and how long they're on for.

Mr. Bob Delaney: In terms of our capacity to serve, are we running a low capacity factor—for example, under 25% of our theoretical limits—or roughly where are we? Just give me an idea.

Mr. Arleigh Holder: I wouldn't know. I would have to check that.

Mr. Bob Delaney: Okay, that's fine. I'm just curious.

The Chair (Mr. Bas Balkissoon): Anybody else?

Is it possible, from your perspective, based on what you know we have today, to report back to committee with some options as to where we can upgrade and the associated cost, so at least somebody has a report and they'll never question it again?

The Clerk of the Assembly (Ms. Deborah Deller): Sure.

The Chair (Mr. Bas Balkissoon): I think that would enlighten everybody as to what is available and what can be provided, probably in stages with every level having a cost to it.

The Clerk of the Assembly (Ms. Deborah Deller): We're talking about streaming for audio and video? You're not talking about extending the broadcast?

The Chair (Mr. Bas Balkissoon): I think Mr. Clark was saying that as long as it's recorded and can be broadcast later on, at least the public can see it. It's to make sure that all the committee rooms have the same capabilities.

Mr. Arleigh Holder: I think you mean as long as it's audio recorded.

Mr. Steve Clark: Yes. I think you can audio record committees fairly easily. Based on what we've seen today on the tour, I think if we were to provide a live stream of this room similar to what we have in 151, it's going to cost us some money. I think we should know what that's going to cost us, but certainly I'm not advocating for that expense. We know now—at least I know from last week in general government—that there is an opportunity for us to provide live-streamed hearings of committees in room 151.

I don't know if there is any additional cost you would prefer to incur if that was going to happen on a regular basis. If there is, I think we should talk about it at committee. But I know, based on what I heard last week, that it certainly is very easy for us to accommodate, and I think we should do that.

The Clerk of the Assembly (Ms. Deborah Deller): Okay. We can report back.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi.

Mr. Yasir Naqvi: Just taking up on the possibility Mr. Clark is asking us to explore; that is, for rooms other than 151 to record audio and then broadcast that recording on, I assume, the TV channel, which is going—

Mr. Steve Clark: We can provide it on the Internet as a podcast. Some Legislatures have a mobilecast that can go to your BlackBerry as well. There are a lot of different things that other jurisdictions right here in Canada are

doing. I think that when they're reviewing it, they should look at what's happening in other provinces: the bandwidth that's being incurred, the storage on the website for those archived items. I think it would be a pretty easy review from the Clerk's and broadcast services' departments to look at other jurisdictions. I have documents here from other provinces. I can provide them to the two of them, and we can get another report.

Mr. Yasir Naqvi: Okay. Definitely a sure cure for insomnia for anybody.

Mr. Arleigh Holder: In terms of storage, would you have any idea how long you would want to keep a committee's business?

Mr. Steve Clark: I don't believe we should be doing it like Hansard or anything.

The Chair (Mr. Bas Balkissoon): A short period.

Mr. Steve Clark: I would defer to you on what you think is appropriate.

The Chair (Mr. Bas Balkissoon): Probably two weeks after the committee finishes its work.

Ms. Sylvia Jones: If I might make a suggestion: as long as the bill being discussed is still active.

The Chair (Mr. Bas Balkissoon): That's not a bad idea, but then you could have some bill get second reading and never make it anywhere.

Ms. Sylvia Jones: Well, so be it.

The Chair (Mr. Bas Balkissoon): That's why I said two weeks.

Mr. Yasir Naqvi: There has to be an element of common sense, because we do have Hansard forever. The proceedings of the committee are recorded in written form, so in that situation, one can rely on that. If somebody really, really wants to hear what happened in the committee—if they really want it—they can read it in Hansard as well.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: Having the option of the audio recording certainly makes it easier for Ontarians who have disabilities. So if we could offer that service and it's at a reasonable cost, I think it's worth our time to explore that option.

1410

Mr. Arleigh Holder: Will this also include committees that are travelling?

The Chair (Mr. Bas Balkissoon): No. That would be stretching it a little too far.

Mr. Steve Clark: But I think, based on what they provide at the actual travelling committee, there still is that capability. All you would need is a phone line, and you'd be able to stream those as well.

The Chair (Mr. Bas Balkissoon): Why don't you report back on the options and the costs, and then the committee will discuss it?

The Clerk of the Assembly (Ms. Deborah Deller): You can leave it to us to report back.

One of the other things we'll have to consider is being consistent with the French Language Services Act. Currently, when we broadcast from 151, it is broadcast in both languages. When we do a live web stream from 151,

it can be done in both languages. So you have to be aware of that too: If you're only providing the service in one language, you may run contrary to the French Language Services Act.

I think we need to consider the whole breadth of issues in this, and we'll come back to you with a full report.

The Chair (Mr. Bas Balkissoon): How long do you think it would take to review what other jurisdictions are doing, what's available, and then come back to the committee so we have an idea of when this will come back here?

The Clerk of the Assembly (Ms. Deborah Deller): Can we come back to you on an interim basis before the House adjourns and tell you where we're at?

The Chair (Mr. Bas Balkissoon): Absolutely. Ms. Jones?

Ms. Sylvia Jones: Just a quick question on the Hansard. I should probably know this, but is Hansard printed in French?

The Clerk of the Assembly (Ms. Deborah Deller): Hansard is printed in the language spoken. If you speak French in the House, you'll see that segment of Hansard in French.

Ms. Sylvia Jones: So we don't currently provide Hansard in both languages. How do we get past that, with the French languages act?

The Clerk of the Assembly (Ms. Deborah Deller): Because it's considered an in-house document.

The Chair (Mr. Bas Balkissoon): Mr. Clark.

Mr. Steve Clark: The other issue we talked about in committee last week that I mentioned is certainly ongoing, and I know that you've looked at it a couple of years ago, is the issue of satellite broadcasting. I know that there are still some Legislatures that are on satellite. I just wondered if there were any comments that you had now, as opposed to what you found two years ago when the last review came to this committee.

The Clerk of the Assembly (Ms. Deborah Deller): We're still struggling. The issue for us is kind of twofold. The CRTC has not yet—if it ever will—considered the issue of broadcast of legislative proceedings in a manner much like they currently allow for C-SPAN or making a provision for mandatory carriage of the proceedings via satellite and/or cable. We continue, along with other jurisdictions, to monitor that, and to push for them to give some consideration to doing that. So far we haven't had a lot of success.

This very topic comes up probably every other year when the Speakers get together at the presiding officers' meeting, because other jurisdictions are having the same problems that we are having.

You'll recall that we moved to C band in order to incur less cost. Other jurisdictions are now doing that, as well, because they're having trouble competing on the Ka band. So there's greater carriage on C band.

Saskatchewan is one of the other jurisdictions that's in almost the exact same situation we are with respect to satellite carriage. The Clerk there and I have spoken recently, and we're going to try to bring it up again at the

next meeting where all jurisdictions are present and try to get everybody on the same page with respect to pushing the CRTC on that issue.

Unfortunately, I don't really have anything positive to report. I will say that the problem has been mitigated somewhat by the live web streaming. We don't get as many complaints as we used to, because more people can access the proceedings on the Internet. It was further mitigated, I think, when we added the eight-day archiving component to the streaming, because people can now watch it whenever they want to watch it. But we are continuing to try and stay on top of that issue.

Mrs. Maria Van Bommel: I'm a bit with Mr. Clark on the whole satellite thing. I find it a bit ironic that at the farm I can get the BC Legislature but I can't get the Ontario one. I know what's going on in BC, or at least my husband knows what's going on in BC.

When it comes to the webcast, unfortunately not all of rural Ontario has broadband, and certainly not high speed. So it becomes really difficult for most of rural Ontario to have access in the same way that others do. I find it a bit frustrating, as I say, that you can watch what BC is doing and you can't see what Ontario's doing.

Mr. Steve Clark: Mr. Chair, if I might—I want to agree. In a rural riding like mine where there are gaps in broadband access, it seems sensible for us to try to rally the other provinces together and have a made-in-Canada solution where perhaps we could all work together on providing access. Albeit it wouldn't be live access, but it certainly would be better access than now.

Some people in my riding joke about even our own TVOntario access—if they ever get restless and are up at 3 o'clock in the morning, they can see us, but they can't see us at 10:30 for question period or for anything else that we do.

So I do think that it would be a great thing if all the provinces did get together and try to work out something on the satellite issue. It would certainly bring down costs. But again, I can appreciate that unless we keep bringing it up and we try to rally it at the provincial level, we're going to have the same discussion every year or couple of years. It's frustrating.

The Chair (Mr. Bas Balkissoon): Mr. Delaney.

Mr. Bob Delaney: A few years ago in my private member's time, I had a resolution that called on the feds to have the CRTC make mandatory the broadcast of not merely the proceedings of the federal Parliament but also the proceedings of any province in which they choose to offer services, such that, for example, if you were a subscriber in Ontario, you would get the federal Parliament and you would also get the Ontario provincial Parliament. If you were in Saskatchewan, you would get the Saskatchewan Legislature etc. That obviously passed unanimously in the House.

It would be a good thing to put our federal members' feet to the fire from all parties and have them do that as well, because I think that's something that when people get cranked up about it, at least we can refer them to this and say, "So, watch it."

Maria was correct. There are a lot of areas where the local regional carrier just says, "I don't want to carry it, full stop."

The Chair (Mr. Bas Balkissoon): Okay. Madam Clerk, just to clarify, when we met two years ago, we had the CRTC issue in front of us, and certain directions were given. If we could get that particular report just brought up to today's date and then a report on what we could do in the committee rooms in various phases and the pricing, and come back to committee. I'm in your hands, and I'm open to a suggestion as to what particular day you want to bring it back so I'll make sure I schedule the meeting.

Mr. Steve Clark: I just wanted to add something, Mr. Chair. It would be nice if, when the Clerk brings it back, we do consider having a resolution out of this committee back to all federal MPs after their May 2 election, just indicating how serious this issue is—

The Chair (Mr. Bas Balkissoon): I think that's what we did the last time, so that's—

Mr. Steve Clark: I think we should do that again.

And if the Clerk's doing a report, I'd love her to do a report on what other jurisdictions are doing with iPad access, too. I've talked to her about it a couple of times. I want to make it clear that I'm not promoting the use of iPads or electronic devices during question period. I think members' statements, like we've seen in the UK recently and in other jurisdictions—we should at least have a discussion about that use as well.

The Chair (Mr. Bas Balkissoon): Okay. Anything else from other members? Is everybody in agreement that that's what we'll do? We'll get a report back from the Clerk's office on what took place in 2008, what is the latest status, and then what we could do for broadcasting from the various committee rooms.

Ms. Sylvia Jones: Just one question: Are we clear on timelines?

The Chair (Mr. Bas Balkissoon): The Clerk said she'll give us an interim report before we adjourn, which is sometime before June 2, and then there will probably be a final report to the committee after the election.

Mr. Steve Clark: Can I ask one more question? Under standing order 108, I believe we also have a committee mandate to hear from the Ombudsman from time to time. I just wonder if, along the same discussion we had a week ago about hearing from broadcast services and the Clerk, it's appropriate for us to do the same thing with the Ombudsman. The way I read the standing order was that we could do a similar review and discussion from his office on what's up with him.

The Chair (Mr. Bas Balkissoon): Mr. Naqvi?

Mr. Yasir Naqvi: I was going to suggest that we perhaps refer that matter to the subcommittee and discuss the next steps for this committee at that time.

The Chair (Mr. Bas Balkissoon): That's probably the way to go, because that's where we bring our business through, and we had the Ombudsman here when—

Mr. Steve Clark: But all I wanted to do was clarify whether that is part of our—

The Chair (Mr. Bas Balkissoon): Yes. It was done when I took the chair, I remember, and it was done when

Mr. Delaney was the chair. So we do go through it every so often. I would suggest that the subcommittee meet and look at that, and then come back to the committee.

Mr. Steve Clark: When will that be?

Interjection.

Mr. Steve Clark: Right after committee?

The Chair (Mr. Bas Balkissoon): It could be right after committee. Who is on the subcommittee now?

The Clerk of the Committee (Ms. Tonia Grannum): It's Mr. Clark, Ms. Van Bommel and Mr. Prue.

The Chair (Mr. Bas Balkissoon): Okay. I'll pick a date with the clerk's office, and we'll sit down together based on everybody's schedule.

Mr. Steve Clark: We're all right here.

Ms. Sylvia Jones: We're supposed to be here until 3.

The Chair (Mr. Bas Balkissoon): But I can't.

The television guidelines, the suggestion by the Clerk on item number 3: I would put that on hold until we hear back on the report as to what to broadcast.

The Clerk of the Assembly (Ms. Deborah Deller): I should be clear about that: It's not that guideline number 3 is terribly problematic for us.

The Chair (Mr. Bas Balkissoon): No. But if we change things, we would need to change this. We will review this at the same time we review your next report. All in favour of that? Carried.

We're adjourned.

The committee adjourned at 1422.

CONTENTS

Wednesday 6 April 2011

Television broadcast system.....	M-175
The Clerk of the Assembly (Ms. Deborah Deller)	
Mr. Arleigh Holder	

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Steve Clark (Leeds–Grenville PC)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Substitutions / Membres remplaçants

Mr. Bob Delaney (Mississauga–Streetsville L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Peter Sibenik, procedural clerk,
Journals and Procedural Research Branch

RZ ON
C20
-L20



M-13

M-13

ISSN 1180-436X

**Legislative Assembly
of Ontario**
Second Session, 39th Parliament

**Assemblée législative
de l'Ontario**
Deuxième session, 39^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 18 May 2011

**Journal
des débats
(Hansard)**

Mercredi 18 mai 2011



**Standing Committee on
the Legislative Assembly**

**McMichael Canadian Art
Collection Amendment Act, 2011**

**Comité permanent de
l'Assemblée législative**

**Loi de 2011 modifiant la Loi
sur la Collection McMichael
d'art canadien**

**Chair: Bas Balkissoon
Clerk: Tonia Grannum**

**Président : Bas Balkissoon
Greffière : Tonia Grannum**

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 18 May 2011

Mercredi 18 mai 2011

The committee met at 1233 in committee room 1, following a closed session.

The Chair (Mr. Bas Balkissoon): I call to order the meeting of the Standing Committee on the Legislative Assembly.

We're here to discuss Bill 188, An Act to amend the McMichael Canadian Art Collection Act.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): Our first order of business is the report of the subcommittee on committee business. Mr. Naqvi.

Mr. Yasir Naqvi: Your subcommittee met on Thursday, May 12, 2011, to consider the method of proceeding on Bill 188, An Act to amend the McMichael Canadian Art Collection Act, and recommends the following:

(1) That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 188 on the Ontario parliamentary channel and the committee's website.

(2) That the clerk of the committee send information regarding public hearings to Canada NewsWire.

(3) That interested parties who wish to be considered to make an oral presentation contact the clerk of the committee by 5 p.m. on Monday, May 16, 2011.

(4) That the clerk of the committee contact the chair of the McMichael board of trustees and the family members of Robert and Signe McMichael to invite them to appear before the committee, if they so wish.

(5) That the length of time for all witness presentations be 20 minutes.

(6) That the committee meet on Wednesday, May 18, 2011, in closed session from 12 p.m. to 12:30 p.m., and for public hearings from 12:30 p.m. to 3 p.m., subject to witness demand.

(7) That the deadline for written submissions be 4 p.m. on Wednesday, May 18, 2011.

(8) That the deadline for filing amendments be 4 p.m. on Wednesday, May 18, 2011.

(9) That the committee request permission from the House leaders to sit from 4 p.m. to 6 p.m. on Wednesday, May 18, 2011, for the purpose of conducting clause-by-clause consideration of the bill.

(10) That the committee meet for clause-by-clause consideration of the bill on Wednesday, May 18, 2011, subject to approval from the House leaders.

(11) That the research officer provide the committee with a historical summary of the evolution of the McMichael art gallery by 3 p.m. on Tuesday, May 17, 2011.

(12) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Bas Balkissoon): Shall the report be adopted? Carried.

McMICHAEL CANADIAN ART
COLLECTION AMENDMENT ACT, 2011LOI DE 2011 MODIFIANT LA LOI
SUR LA COLLECTION McMICHAEL
D'ART CANADIEN

Consideration of Bill 188, An Act to amend the McMichael Canadian Art Collection Act / Projet de loi 188, Loi modifiant la Loi sur la Collection McMichael d'art canadien.

McMICHAEL CANADIAN ART
COLLECTION BOARD OF TRUSTEES

The Chair (Mr. Bas Balkissoon): Okay. The next order of business is our first deputant from the McMichael Canadian Art Collection board of trustees, Mr. Upkar Arora, the chair. You have 20 minutes. If there is any time left at the end of your presentation, we will have questions from all parties equally distributed.

Please state your name for the record, then you can start.

Mr. Upkar Arora: Upkar Arora.

The Chair (Mr. Bas Balkissoon): Okay, go ahead.

Mr. Upkar Arora: Dear members of the standing committee, thank you for the invitation to speak to you today regarding Bill 188. My name is Upkar Arora, and I'm here on behalf of the board of trustees of the McMichael Canadian Art Collection, in my capacity as chair.

I have some prepared remarks I would like to make for about 10 minutes and then I would welcome any questions or comments you may have after that.

My objective in speaking to you today is to outline some of the key reasons why we, as a board, believe that

the proposed legislative amendments are important and essential.

Before I begin to outline some of these reasons, let me provide you with some context and background. The world in which the McMichael exists today is dramatically different than the world of 10 or 15 years ago and would have seemed unimaginable 50 years ago when the McMichael collection was first founded. Three of the main differences that have affected all arts and cultural institutions to varying degrees are as follows:

(1) Audiences are declining. There are many more alternatives for people to spend their discretionary dollars as it relates to entertainment generally, and thus the marketplace is more competitive for arts organizations.

(2) Audiences are changing in terms of their cultural makeup, diversity, gender and age of the people in the GTA, and in the province generally.

(3) Audiences are engaging differently. The transformative impact of technology and the Internet and the means by which we access and absorb information has changed the way we experience and relate to arts and culture.

Those are the general dynamics that have affected nearly all arts and cultural organizations. As it relates to the McMichael specifically, there are three factors that have resulted in our institution being negatively impacted over the past several years.

(1) Huge transformational projects that have been completed, such as the ROM and the AGO, have made it more challenging for the McMichael to compete with big institutions, big marketing budgets, big exhibitions, extensive resources and a great deal of profile and visibility.

(2) The location of the McMichael, being outside of the downtown core, is at once a blessing and the biggest challenge that we face, since it is not a beneficiary of the spontaneous or impulsive traffic that is generated by other downtown institutions.

(3) The significant gift by Ken Thomson of the Group of Seven collection to the AGO has made the McMichael's value proposition less unique and thereby less of a draw to pull visitors to the Kleinburg location.

In the face of such enormous changes, our challenge is how we continue to be relevant today, tomorrow and to future generations.

The proposed legislative changes in Bill 188 are thus not a reaction to any crisis or issue at the McMichael; merely that the McMichael, with the support of its principal stakeholder, the government of Ontario, is attempting to ensure that its proposed mandate is reflective of the new reality that is impacting all institutions generally and the McMichael specifically.

1240

Let me put the proposed changes into context and try to provide you with the perspective of the board of trustees. As a board, we are entrusted to protect and safeguard the valuable assets of the people of Ontario. We believe it is also our duty and obligation to continue to build on the foundation that will enhance the probability

of success for the institution that we are so proud of, that we believe in and that we devote so much time and attention to. Our objective is to look ahead and sow the seeds today to ensure the survival of the institution tomorrow.

The legislative changes that are proposed in Bill 188 are about stimulating progress while preserving the core, and are but one critical element of the renaissance that we hope to achieve of the McMichael, a renaissance that I hope will be carried on in the years and decades to come—and long after my tenure as chairman—by staff, volunteers, management, and current and future board trustees.

Let me highlight some of the other changes, the more progressive steps that we have made and embarked on successfully to date, so that you can put into context how the legislative changes are but one element of the overall framework and plan.

(1) We have brought on board a new CEO, who you will hear from in a few minutes, and she brings tremendous experience, passion and leadership in the arts and culture sector. Her mandate is to raise the profile of the McMichael within the community, the GTA, Ontario, Canada and internationally, to attract both residents and tourists to this very important destination.

(2) We are putting the finishing touches on a \$4.2-million rehabilitation project, funded through the infrastructure stimulus fund, that will significantly improve the exterior grounds of the McMichael, which will be complemented by an outstanding sculpture garden featuring works of the Canadian artist Ivan Eyre.

(3) With the support of our major stakeholder, we have been active in recruiting some outstanding individuals to our board of trustees who will provide the board with tremendous diversity of experience and diversity of talents, skills and, most importantly, perspectives for years to come. Last month we received official confirmation of seven new trustees joining our board.

(4) We have started a dialogue with the city of Vaughan to work more collaboratively with the municipal government in reaching and building relationships with the residents of our local community and creating a draw to attract people to the area.

Finally, we have made significant strides to reinvigorate our gallery, both physically and through exhibitions, to re-engage previous audiences and engage new ones, both within our walls and outside of them, to much critical acclaim and popular success.

If we are to continue in this positive direction, then the proposed legislative changes are essential, both in a practical sense and as a clear message to all of our stakeholders: our audiences, our staff, our management, our volunteers, our donors and patrons, our foundation and board directors and trustees and, of course, the artists themselves. We have to reinforce that we are committed to doing everything within our power to ensure the McMichael continues to have a place in the hearts and minds of the people of Ontario.

However, our ability to move forward is constrained by legacy issues relating both to the current legislation

and the ongoing perception that the mandate of the McMichael and its ability to both collect and exhibit artists is not clear. Bill 188, from our perspective, attempts to change the reality as well as encourage a change in perception in the general community.

Just to be clear, the proposed changes in Bill 188 are not about a different vision than the one that was enunciated by Bob and Signe McMichael more than 40 years ago. Their vision joined a love of land with a love of art, and their passion was to share that vision with the people of Ontario and all of Canada. I genuinely believe that if Bob McMichael were here today, faced with the choice of, on one side, having the McMichael march down the path of possible extinction due to a narrowly defined mandate or, on the other side, reinterpreting the vision in a way that is faithful to the McMichael legacy, he would clearly choose the latter.

But it is not my belief about the McMichael or about Bob McMichael that is important. It is really the fact that those parties who have been the closest to Bob and Signe McMichael are supportive of the proposed amendments: Dr. Jack and Penny Fenwick, who are the executors of the McMichael estate, as well as Lynn Bevan, who has been their sage counsel and Bob McMichael's adviser through the decades. We at the McMichael have engaged them in a constructive dialogue over the past year to ensure that we are honouring the legacy and respecting the vision of Bob McMichael.

Bill 188 embodies proposed changes that the board, the family of the McMichaels and the government of Ontario all believe are essential, necessary and responsible.

Bill 188 removes one of the impediments. It is a necessary but not sufficient condition for long-term sustainability. In and of itself, it merely creates the right foundation: an environment for success to take place. The rest is up to all of us.

In summary, then, the McMichael needs additional resources, new audiences, new donors and compelling and interesting exhibitions and strategies to continue to be fiscally responsible while still engaging the diverse cultural and ethnic mosaic that is Toronto and Ontario.

But first we need your support in passing Bill 188 to accomplish two objectives: first, to ensure that the core of the collection, being the gift of the McMichaels, is preserved so that all Canadians can experience for themselves what an important part of our identity, our heritage, and the way we relate to the land, is embodied in the works of the Group of Seven, their contemporaries and the aboriginal peoples of Canada; and, second, to provide adequate flexibility within the collection's exhibition and governance mandate to ensure the long-term sustainability of this cultural and artistic icon for all Canadians to experience, today, tomorrow and for decades to come.

Thank you.

The Chair (Mr. Bas Balkissoon): We've got about three minutes each, and we'll start with the Conservative Party. Mr. Arnott?

Mr. Ted Arnott: Thank you, Mr. Arora, first of all, for coming in today to make this presentation on behalf of the board, but more importantly for your public service on the board—and the other board members, if you could convey our appreciation.

I do have a couple of questions. You mentioned the Art Gallery of Ontario. I do recall, in the 1990s, when it became apparent that the Thomson collection of Canadian art might be moved from its location downtown to another one, there was an effort to bring that collection to the McMichael. In the end, it was decided that it would go to the Art Gallery of Ontario.

What relationship does the McMichael have with the Art Gallery of Ontario in terms of sharing works of art and sharing exhibits back and forth? Do you have a formal partnership, or is it more informal? How could that be explored to improve the attendance at both galleries?

Mr. Upkar Arora: My understanding is that we do not have a formal partnership with the AGO. We have a partnership with the ROM, for example, to explore ways that we can work collaboratively. But having just experienced three days of the arts summit that has brought together 42 of the top leaders of arts organizations in Canada, I will tell you my view is that we can work much more effectively, working in collaboration, to promote tourism, to promote understanding and appreciation of the arts, and to promote how important that is to who we are as a people.

It would be our endeavour—and Victoria is going to touch on this a little bit—to start with our local community and then to broaden those relationships to much more of the stakeholders, to figure out how we can work on a win-win basis.

Mr. Ted Arnott: Because it would be in the interests, I think, of both galleries to encourage visitors to visit both, I would anticipate and expect. Would you agree?

Mr. Upkar Arora: I certainly would. I know that there's an informal dialogue. For example, all of the people from the AGO and the ROM were at the summit, so there's an informal dialogue that happens that hasn't been formalized into a structure or an arrangement with the AGO.

Mr. Ted Arnott: Who initiated this bill? Was it the board, was it the staff of the McMichael or was it the government? Who started this ball rolling?

1250

Mr. Upkar Arora: The process started in mid-2009, and it was really the board, which felt that the current legislative mandate was hampering its ability to move forward from a strategic standpoint. It was hampering the desire of donors to donate collections, it was hampering efforts from a fundraising standpoint and it was hampering efforts with respect to the exhibitions and collections mandate.

Mr. Ted Arnott: This bill abolishes the advisory committee, and I'm wondering why you don't want to have an advisory committee to the board.

Mr. Upkar Arora: Let me just be clear: The art advisory committee which is legislated currently would be eliminated under this bill. We have already put in place the process and the terms of reference for an acquisitions and collections committee, but that will not be statutorily determined, but governed by the bylaws of the organization. So what that really means is that the current committee requires that we have five members and that the chair sit as one of those members. In fact, it's a little bit difficult because we have some tremendous capability on our board. I'll just give you one example: Linda Rodeck, who's a trustee and chairman of Sotheby's Canada, can't sit on the advisory committee because we have no space, based on the statutory definition. We would expand that committee to more members and ensure that the criteria for inclusion on that committee reflected arts expertise.

The Chair (Mr. Bas Balkissoon): All right, we'll move on. We'll come back.

Mr. Ted Arnott: Okay, thank you.

The Chair (Mr. Bas Balkissoon): Mr. Tabuns?

Mr. Peter Tabuns: Mr. Arora, thank you for the presentation and thank you for being here today.

The bill seems fairly straightforward to me. Your presentation sets out why this bill could be useful. Can you tell us if there are any groups that have difficulty with this bill that you're aware of or that have approached you or the leadership of the collection?

Mr. Upkar Arora: To my knowledge, there are no groups that have expressed any concern or opposition. Rather, on the other side, I think the fact that we've been able to work collectively and collaboratively with the Fenwicks has really enhanced our ability to move forward on a consensual bill that makes sense. I would just put it into this perspective: There is no other party that would have a closer interest and attachment to any changes that are proposed, and if they are on board, then I would tell you that they represent most closely and sincerely the vision and the genesis of the McMichael collection.

Mr. Peter Tabuns: Okay, thank you. I have no further questions, Chair.

The Chair (Mr. Bas Balkissoon): The government side. Ms. Albanese?

Mrs. Laura Albanese: Thank you very much for being here today and for your presentation.

I just had one general question: As you stated just a few moments ago, the bill really came forward through recommendations of the board. I would like to ask if the proposed amendments do address the critical issues that were raised by the board.

Mr. Upkar Arora: The proposed amendments certainly do address the issues that were raised by the board. The proposed amendments are not exactly 100% what was originally proposed, but at the time of the proposal we understood that we needed a process which would bring the Fenwicks, the family, on board with any proposed changes, and we have worked to get that commitment and buy-in. So the changes are perfectly satisfactory from the board's standpoint.

Mrs. Laura Albanese: Thank you, and we are certainly supportive of the bill and supportive of culture. Thank you very much.

The Chair (Mr. Bas Balkissoon): Mr. Arnott, you had another question?

Mr. Ted Arnott: Yes. You went to great length to inform the committee about the work that's been done to reach out to the surviving members of the McMichaels' family and to have their agreement and support. I knew Bob and Signe McMichael, too, from the 1990s. My question to you is, do you believe that if they were here, that they would support the amendments we're debating here?

Mr. Upkar Arora: I personally do. I didn't know the McMichaels personally, so I'm basing that on, really, the juxtaposition of the two choices we have in front of us. I think that to continue on a narrowly defined mandate we are going down a path of ultimate extinction for the McMichael as a stand-alone, surviving entity. Given that choice versus modifying, perhaps, the initial vision—which frankly, could not have contemplated where we are today with technology, the Internet, other major institutions and the competitive nature of the world we live in—I think they would choose a path that would say that ultimately the goal was to make the collection accessible to as many people as possible and they would err on the side of choosing that overarching goal over the specific terms of the mandate.

The Chair (Mr. Bas Balkissoon): Thank you for coming today.

Mr. Upkar Arora: You're welcome.

McMICHAEL CANADIAN ART COLLECTION

The Chair (Mr. Bas Balkissoon): The next deputant is Victoria Dickenson. Welcome. You have 20 minutes. If there's any time left at the end of your presentation, we will divide it amongst all parties for questions. If you could state your name for the record, then your presentation can start.

Dr. Victoria Dickenson: Victoria Dickenson.

Thank you very much for the invitation. I'm delighted to be here. I am the very new executive director and chief executive officer of the McMichael Canadian Art Collection, and it's a real privilege for me to have accepted that position.

It is also my good fortune to arrive at such a moment of renewal for this important institution. The McMichael is one of Canada's great cultural institutions and an important player in Ontario's rich cultural network. I'm speaking to you today from my personal experience and professional standpoint. Our chair has spoken eloquently on the situation of the collection and something of the process that has resulted in this important legislative change we are looking at today.

I want to share with you my own assessment of the significance of the McMichael going forward. First, let me acknowledge the contributions of Robert and Signe

McMichael, without whom the McMichael would not exist as a public institution. We'll be acknowledging their legacy and foresight in 2015, when we celebrate our 50th anniversary, and I think that's going to be an exciting year for us.

For a number of years, however, the McMichael has been burdened by legislation that, despite the intentions of its creators, did not reflect best-industry practices in contemporary public galleries and museums. This legislation has limited the collecting practices and priorities for the McMichael and has not provided an appropriate foundation for the collection to reflect the growing and diverse public interest in Canadian art. I am most appreciative of the work over the last few years of the current board and our chair, who have had the foresight and diligence to review and work to revise the legislation and to bring it in line with accepted professional practice.

As a public institution, the collections of the McMichael Canadian Art Collection are held in trust for the people of Ontario and Canada. The new legislation recognizes the importance of that trust and the role of the institution serving all the people of the province. The proposed legislation will allow the McMichael to expand its collection practices beyond the 18 artists designated in the original legislation to reflect a much broader representation from different segments of contemporary society. The bill will allow the McMichael to continue to celebrate that foundation collection of the Group of Seven and their contemporaries, as well as the important and growing collections of First Nation, Métis and Inuit artists that have always been part of that legacy.

The acceptance of Bill 188 will also ensure that the McMichael Canadian Art Collection may now begin to acquire artists of special note who have made significant contributions through their work to Canadian art, and the collections can grow to reflect our diversity as a country and the diversity of our artistic expression today.

Although I was not in Ontario during the period in which the McMichael laboured under its peculiar legislation as a public museum, I was aware of the difficulties that the more restrictive legislation had for my professional colleagues. I want to salute the staff of the McMichael who, while honouring the legislative mandate, were able to imaginatively move the gallery forward in presenting important exhibitions and programs to our public. I am very much looking forward now to working with our excellent staff to build on past success and to spread our wings a bit, to re-imagine our future and achieve greater heights in service to all our communities: local, regional, national and global.

A word on communities: Community support is integral to the growth and sustainability of healthy museums. The McMichael must strive to reflect the important evolving cultural face of Ontario and Canada, one of the most diverse countries in the world. The legislative changes will help to ensure that the McMichael serves as an important cultural destination, not only for tourists, but for our local communities. We are already an important cultural resource for the York and Vaughan

regional communities, and the changes proposed in this legislation will allow us to enhance collections and exhibitions, creating a broader range of offerings to attract these visitors, to have them return and come over and over again.

Community also includes not only those who visit us and experience our grounds, buildings, programs and exhibitions, but also those who support us through their contributions of time and their financial and collections donations. I have already heard—and this is only my fourth week there—from long-time volunteers and donors to the McMichael that they are so looking forward to, as one put it, “the clouds moving away,” and to a new and reinvigorated institution, free from the unfortunate atmosphere of controversy that has in the past tended to chill the warm relationship between public stakeholders and the institution.

1300

We're very much looking forward to working with all of our partners, collaborators and stakeholders in government and the private sector, and our community supporters, to develop and enhance the role of the McMichael as a contemporary professional institution of the highest calibre, providing wonderful experiences on-site to those who visit us and use our facilities, and communicating about our collections and the role of our artists in reflecting our experience and expressions of our increasing diversity through our online presence to a global audience.

I want to thank again the diligent members of the McMichael board; the Fenwicks and their representative, Lynn Bevan; and the government officials who have worked alongside the board for so long to create a foundation on which the McMichael can grow to serve, with increasing brilliance, all our communities and to make a difference in the lives of those whose heritage we hold in trust. Thank you very much.

The Chair (Mr. Bas Balkissoon): Okay, we have about four minutes. We'll start with the NDP this time. Mr. Tabuns?

Mr. Peter Tabuns: I'd like to thank you for the presentation, but to be quite honest, things are pretty straightforward, so I don't have any questions.

The Chair (Mr. Bas Balkissoon): The government side? Mrs. Albanese?

Mrs. Laura Albanese: Yes, I would like to thank you for the presentation as well, and offer my congratulations, and those of my colleagues, on your new position as executive director and CEO of the McMichael.

I guess I have perhaps one question. Your mandate is that of increasing the visibility of the McMichael, even on an international level. Could you elaborate a little bit on what the long-term plan is on that?

Dr. Victoria Dickenson: I think, as Upkar explained, one of the great changes in our world that was not envisioned in the original legislation was the growth of the Internet and the online Web presence of so many institutions. The McMichael has a good foothold in that, but we can now expand to be a much more important presence online. It's an area that I have a particular inter-

est in—I know my staff is excited to be working in this area as well—and we’re looking to increase both our capital infrastructure, for increased usability on-site, and applications to mobile devices. If any of you have younger people in your household, you’ll know that they live their lives on their mobiles, and we want to make sure that we’re talking to people where they find their information, both here and outside the grounds of the McMichael.

We aim to have a more vigorous Web presence, a more interactive Web presence, so that we’re delivering information out there to a larger community, putting our collections online and putting information about our collections, but also allowing—and I’m looking forward to this—a global audience to interact with the works we have online and to reassemble, if you will, the work of our artists to create an ongoing dialogue on an international basis.

Mrs. Laura Albanese: Thank you for that explanation. I have no further questions.

The Chair (Mr. Bas Balkissoon): Mr. Arnott?

Mr. Ted Arnott: Yes, thank you, Mr. Chair, and thank you very much for your presentation, Ms. Dickenson. Congratulations on your new assignment.

Dr. Victoria Dickenson: Thank you.

Mr. Ted Arnott: We look forward to working with you in a spirit of partnership, and we want you to succeed, obviously.

I have a question with respect to your plans to honour the McMichael’s 50th anniversary in 2015, as you said. How do you plan to do that, and what sort of expectations would we have?

Dr. Victoria Dickenson: I’m a little fresh on the job to give you details, but we have already discussed the fact that 2015 is our 50th anniversary. That’s a time to look back and to celebrate, but also to analyze and assess. I can imagine right now that we would like to look back at that original donation and see how that looks in the context of the contemporary world, because there are about 194 paintings, I think, in the original donation. So how do they look? What is the shape of that original donation?

I also think it’s a wonderful moment to look back as well at the world of that period and the way in which we thought about Canada, about Canadiana, which was very important for the McMichaels, and how we see that in the world today. So right off the top, I see two things that will be really exciting for us—that juxtaposition of our history with the future.

Mr. Ted Arnott: We share your concern about the diminished number of visitors. Legislative research gave us information here that shows that in 2006-07 the attendance was 118,235, and in 2010-11, which is the most recent information, it was down to 83,308. I gather that you would point to this as one of the reasons why this bill is needed. What plans do you have to turn this around so that we can ensure that the numbers start going up again and hopefully exceed the number of visitors in 2006-07?

Dr. Victoria Dickenson: Well, we have evidence of one of the ways in which we can increase our visitation. There was the success of our recent exhibition on Marilyn Monroe. We did two exhibitions: Marilyn in Canada, curated by the McMichael staff, to complement an exhibition with an international touring exhibition agency on, really, artists’ view of this iconic figure in the 20th century.

I think we’ve understood that high-visibility exhibitions can bring in new clientele, and what we saw was a new clientele. My favourite was seeing the group of very charming elderly ladies looking at Marilyn, who had been part of their youth, with the young girls with the two tattoos running up their legs right beside them, looking at the same images.

I share that image as where we want to be. We want to be attracting both traditional audiences but also reaching out to a new audience. I think we need to look very carefully at what exhibitions we’re producing, find the space in which we are collaborating with our colleagues; for example, Jack Chambers, the London artist. We’re doing a show of his work, his filmic work and some of his what are called silverpoint paintings, at the same time as the AGO is doing their Jack Chambers retrospective. We hope to do some collaboration there.

So, building on the success of exhibitions but also increasing programs—I think museums are successful when we look locally and globally—looking at our local programs to encourage repeat attendance. We have a large community. When McMichael was founded—I went there when it was a very new institution—it was in the country. We’re now on the edge of Canada’s largest metropolitan community, but there’s also a very vigorous community surrounding us, and we want to serve that local community at the same time as we want to think out, using new media, using the Web presence, into a global community. I think all of those things can help to increase our attendance going forward.

Mr. Ted Arnott: You mentioned the exhibit of Marilyn Monroe photographs, and I’m just wondering if that exhibit is within the mandate of the current legislation or if it’s outside.

Dr. Victoria Dickenson: The legislation referred to acquisition, not necessarily to exhibitions. I think it’s the acquisition of works into the collection and the focus of the collection. To be restricted to 18 artists is extremely unusual for a public museum. It’s a kind of mandate where I cannot think of another institution in this country that would have a restricted mandate like that. By expanding the mandate for collection, we also expand the interest of donors, collectors and the public as we work with younger artists and new artists to acquire material which we can then put on display.

The exhibition mandate at the McMichael, while in keeping with the spirit of the McMichael—and I think that’s very important—is broad, but the collection mandate was small and did not allow us to produce exhibitions out of our own collections that spoke to contemporary interests.

Mr. Ted Arnott: Thank you for that, and we look forward to working with you in a spirit of partnership.

Dr. Victoria Dickenson: Absolutely.

The Chair (Mr. Bas Balkissoon): Thank you for your presentation.

McMICHAEL CANADIAN ART FOUNDATION

The Chair (Mr. Bas Balkissoon): Our next presenter is Michael Burns, director and former chair. You have 20 minutes for your presentation. If there's any time left, we'll have questions from all parties. Please state your name for the record and then you can start your presentation.

Mr. Michael Burns: My name is Michael Burns. I think I should start by saying why I'm here. Let me start by saying that the last time I was in this room was for the same reason that I am here today. That was the legislation that returned the McMichael to its current status. I was there speaking as I am today, trying to ask government not to bring in a bill that would curtail what we were trying to do at the McMichael. Unfortunately, we lost that day.

Today, I'm here speaking as a long-time supporter of McMichael. I have over 25 years of volunteer service there: two years as vice-chairman, six years as chairman, the founding chairman of the foundation, a continuous fundraiser, a continuous believer in Canadian art, a continuous believer that this institution can and will succeed and will grow. It will grow because of the leadership that the institution has been able to have over the 25 years of my involvement, starting with Barbara Tyler and moving on to Victoria Dickenson today. I know Victoria has not been there long, but in my short meetings with her, I know that she has the feeling of the public, of the people, of the residents of the area, and that is so important to the institution.

We will not be looking at falsified numbers on attendance, which I faced, because that's what the McMichaels wanted. They wanted to show that they were a success. The McMichaels did everything in their power when I was there, until I resigned, and then I came back on after Bob died. But to go out and bring in a proper exhibition of art that will bring people to the gallery to the benefit of the area and the province, and to have the money sitting in the bank and have one person with the ability to reject the exhibition and send the money back—and we're not talking about \$5,000; it was six-figure number that had to go back. We have never, ever been able to get that donor to think about the McMichael because of instances like that.

1310

In my time there, as a chairman of the trustees, it was a constant fight. This new legislation is a breath of fresh air. It's going to allow this institution to become what we all want it to be, what the province wants it to be, what Canada wants it to be. This is an institution that is unique, no matter where you go in Canada or the world. I

think this bill will allow it to grow; it will allow it to become what so many of us have worked so long and hard for.

I don't need to go into incidents of the past; I only want to look at the future. The future with this new bill, with the ability to get the kind of trustees that the McMichael needs, to allow the people who are raising money to endow the McMichael and to sponsor exhibits, not fighting opposition from within—I think this institution will be so enhanced that everybody in this room, in this province, in the Legislature, will look back and say, "Thank you for Bill 188."

It's so important. I encourage you to get it to royal assent as soon as possible, because the sooner we get on with it, the sooner this institution can grow and become what we all want it to be.

I don't think you need any more than that. I'm an emotional person, and this has been an emotional day for me, to be able to know that varying parties in power in this province are supporting the bill, certainly, and there has been no opposition. Although I don't know the McMichael heirs, I know that they are in favour, and I think that is the most exciting thing for me—to know that finally we've got the support there that we have often not had.

Anyway, thank you very much for allowing me to be here. I don't think you need any more from me. Thank you.

The Chair (Mr. Bas Balkissoon): Well, let's see if we have any questions for you. The government side: Ms. Albanese.

Mrs. Laura Albanese: I would like to thank you for your presentation, for your comments, for the dedication and the commitment that you have shown towards the McMichael, for your service and for the passion, really, that comes out from the words you have said here this afternoon. We appreciate the work you have done and all the support that you will give to this institution in the future. Thank you.

Mr. Michael Burns: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Arnott?

Mr. Ted Arnott: Thank you for your presentation and for providing the committee with your insights and your experience.

Mr. Michael Burns: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Tabuns?

Mr. Peter Tabuns: Similarly, thank you very much for your commitment to the collection and for coming here today. Like others, I don't have questions. You were very clear in your presentation.

Mr. Michael Burns: Thank you very much.

The Chair (Mr. Bas Balkissoon): Thank you, Mr. Burns. You've convinced them all.

Mr. Michael Burns: Thank you.

MS. JOYCE FRUSTAGLIO

The Chair (Mr. Bas Balkissoon): The next presenter is Joyce Frustaglio. Welcome.

Ms. Joyce Frustaglio: Thank you so much.

The Chair (Mr. Bas Balkissoon): I haven't seen you in a long time.

Ms. Joyce Frustaglio: I know; I've been around.

Thank you so much, Mr. Chair and members of the committee. It is a real pleasure for me to be here.

The Chair (Mr. Bas Balkissoon): Just state your name for the record.

Ms. Joyce Frustaglio: Yes. My name is Joyce Frustaglio. I am a former regional councillor and deputy mayor of the city of Vaughan and a member of regional council, as well as, I believe, the longest consecutively sitting member on the board of trustees of the McMichael.

I too speak with tremendous passion when it comes to the McMichael. I have been there through all: the good, the bad, the trials and the tribulations. I've been there when things were absolutely just awesome, and I was there when things were very difficult to deal with. Obviously, the government of the day also had its challenges dealing with the issues that affected the McMichael.

I can tell you that I've worked with the new chair, and I've worked with the previous chair. They're not there for self-aggrandizing purposes but to ensure the legacy of the McMichael.

I had the great pleasure of knowing both Robert and Signe. I can tell you that if they were able to be here today, their position would be, "We must ensure this legacy." We must ensure that the McMichael continues to thrive and to live out their legacy. I believe that Bill 188 will do that.

The previous bill did really and truly hamper the board's ability to elevate the position of the gallery on the world stage and on the national stage. The McMichael is a national treasure. We in the province of Ontario are so fortunate to have been gifted such a wonderful gift, and I think that we collectively and particularly you, the government of the day, have a moral obligation to ensure its longevity, but more importantly, to ensure its success.

I don't know about you, but when I travel, the first thing I do is to go to the galleries. I want to see the history. It talks to you. I've just returned from South America, and I went to Machu Picchu. And if you've never been, I say, please go. The thing that touched me the most was not the actual mountain, Machu Picchu, but when I went to see the art gallery and the tremendous works of these amazing people, because that's what told me the history.

When you go to Europe—I go to Florence. Life wouldn't be a trip to Florence without going to the Uffizi. Life wouldn't be a trip to Paris if you didn't go to the Louvre. I spent two and a half hours in the pouring rain last year waiting to get into that famous art gallery, which speaks to the history of the people who have contributed to its welfare.

I have raised—I'm not exactly sure—if not over \$1 million, certainly very close to \$1 million for the

McMichael gallery over the years as chair of fundraising. When we approach people to contribute and consider contributing, one of the obstacles that we encountered was always, "We love the Group of Seven"—everybody loves the Group of Seven. But why is it that we consider ourselves a national gallery of Canadian art and yet exclude the hundreds and hundreds of awesome, talented artists across this country? I believe that the amendment to this legislation will allow us to do some of the things that we were not able to do in the past.

The McMichael is presently participating in—actually, co-sponsoring, along with the National Gallery—a touring exhibition called Painting Canada. I don't know if you know about it, but if you don't, you might want to inquire. It includes Tom Thomson and the Group of Seven exhibition. The exhibition is being led by the Dulwich Picture Gallery in London, England, and it's expected that once it's finished there, it will tour all of Europe. That will put the McMichael Canadian Art Collection, Canada, Kleinburg, the city of Vaughan, the region of York, certainly the province of Ontario, on the world stage when it comes to art exhibits. We want to be able to show all of Canada that the McMichael is home to Canadian artists.

1320

I'm sure you're aware that we have presently been fortunate enough to receive, also with your assistance, \$4.2 million in infrastructure dollars. You should come and see the site. It is going to absolutely rejuvenate and breathe life into the over 100 acres of land that the McMichael sits on. People walk into those trails, the parks and the woodlots, and you can almost feel the presence of the Group of Seven. It is going to create a very special and spiritual place where the cemetery is now for the Group of Seven. Half of the people didn't even know we had a cemetery there before. Now we're looking at elevating its existence in many ways.

The programs: Part of the money that I raised over the years went to a program that was intended to help terminally ill cancer patients. As a four-time cancer survivor, I can tell you that the benefits of that program exceeded the efforts of anyone who ever contributed to it. I think the previous speaker spoke to the amazing programs that we have there, the thousands and thousands of children who come through those doors on a daily basis.

I can only say that we really do need these amendments. We need Bill 188 if the McMichael gallery is truly to be a participant on the world stage.

I woke up this morning and this thought crossed my mind. I wanted to share it with you, because I really do believe that, aside from the fact that the gallery is a jewel, a national treasure—we always said at the region that it was a jewel in the crown of the region of York and the city of Vaughan. I hope that you consider it a jewel in the province of Ontario.

Arts and culture is an integral part of tourism and the economic vibrancy of a community. Without that, I don't know that cities could survive. Touring is not just about looking at buildings and going shopping. For the most

part, people enjoy going to different cities and different parts of the world to look at their art and their culture and to come back enriched. Arts and culture, I always say, is the international food for the mind and the soul.

I do hope that you will move forward positively with these amendments and allow the gallery to move forward. You, as a province, will reap the benefits, because I believe that there's tremendous opportunity with these new amendments.

Thank you so much for allowing me to speak to you today.

The Chair (Mr. Bas Balkissoon): Thank you. We have questions and comments. Ms. Jones.

Ms. Sylvia Jones: Joyce, I don't have questions for you, but after that presentation, I can see why you have been such a successful fundraiser for the McMichael. I thought at the end, instead of saying "move forward on the amendments," you were going to say "move to donate now."

Ms. Joyce Frustaglio: Well, you can do that, too.

Ms. Sylvia Jones: Yes, I'm sure.

Thank you very much for your passion and for your continued support of the McMichael Canadian Art Collection.

The Chair (Mr. Bas Balkissoon): Mr. Tabuns.

Mr. Peter Tabuns: Joyce, also, thank you very much for coming down today and making a presentation. You really do carry the place in your heart; it's very clear to us. Thank you.

The Chair (Mr. Bas Balkissoon): Ms. Albanese.

Mrs. Laura Albanese: I, too, want to thank you, Joyce, for your passionate words and for all your support for the McMichael. Your words have certainly intrigued my colleague Khalil Ramal, who had to leave momentarily. He has never visited the McMichael, and as you were speaking, he said, "Is it really that beautiful? I will have to go." I have visited many times myself, for different exhibitions. I remember being there when my children were in school, on school trips, as a parent. It's a lovely place, and we certainly want to ensure that it continues to thrive in the future.

Ms. Joyce Frustaglio: Thank you very much. I know that you must be a lover of art, because you're married to a very passionate artist. I can tell you, there's nothing that we would love more than to have the ability to exhibit art of people who are Canadians. And I'm not saying this just to stroke you. It really is the truth. I think we have an opportunity in Canada, in this gallery, that we have not really looked at and expounded on. I think the opportunity is there, with this new bill.

I would also like to say that I think it's critical that when the government is appointing members to the

gallery—I always say the pocketbook speaks volumes. When I was appointed, I said, "Hey, I can't write the cheque, but I sure know people who can." I think that community contributions to institutions such as the McMichael and national galleries are essential for their survival. You, as government, have an obligation to ensure that the people who are appointed have not just maybe the ability to write that cheque, but have the ability to bring those cheques to the table. It's essential.

Thank you so much for allowing me the opportunity to speak to you today.

The Chair (Mr. Bas Balkissoon): Thanks for being here. It's nice to see you again.

Committee, just a reminder: The deadline for any amendments—and I didn't hear anybody suggesting anything around the table—is 4 o'clock.

We will recess and reconvene at 4.

The committee recessed from 1327 to 1600.

The Chair (Mr. Bas Balkissoon): We'll reconvene the meeting. We're here to deal with clause-by-clause. I understand there's no amendments, so we'll take it from the top.

Bill 188, An Act to amend the McMichael Canadian Art Collection Act.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 188 carry? Carried.

Shall I report the bill to the House? Carried.

I guess that's all of it, so Bill 188 is recommended back to the House by the committee.

Mr. Khalil Ramal: Mr. Chair, I just want to say I've been in this place for the last eight years and attended many committees. I think this is one of the best. The co-operation between—

The Chair (Mr. Bas Balkissoon): You're invited to sit on my committee at any time. This is the normal way we do business. It's always quick. It happens before you even blink.

Committee is adjourned.

The committee adjourned at 1602.

CONTENTS

Wednesday 18 May 2011

Subcommittee report	M-181
McMichael Canadian Art Collection Amendment Act, 2011, Bill 188, Mr. Chan / Loi de 2011 modifiant la Loi sur la Collection McMichael d'art canadien, projet de loi 188, M. Chan	M-181
McMichael Canadian Art Collection board of trustees	M-181
Mr. Upkar Arora	M-184
McMichael Canadian Art Collection	M-184
Dr. Victoria Dickenson	M-187
McMichael Canadian Art Foundation	M-187
Mr. Michael Burns	M-187
Ms. Joyce Frustaglio	M-187

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Vice-Chair / Vice-Président

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Steve Clark (Leeds–Grenville PC)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches–East York ND)

Mr. Mario Sergio (York West / York-Ouest L)

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Substitutions / Membres remplaçants

Mrs. Laura Albanese (York South–Weston / York-Sud–Weston L)

Mr. Ted Arnott (Wellington–Halton Hills PC)

Ms. Helena Jaczek (Oak Ridges–Markham L)

Mr. Khalil Ramal (London–Fanshawe L)

Mr. Lou Rinaldi (Northumberland–Quinte West L)

Mr. Peter Tabuns (Toronto–Danforth ND)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Ms. Carrie Hull, research officer,
Legislative Research Service



3 1761 11465902 2